

Under this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

Entirely new rules are printed without any special symbology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

An important function of the *Missouri Register* is to solicit and encourage public participation in the rule-making process. The law provides that for every proposed rule, amendment or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

If an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

An agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

If an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:
Boldface text indicates new matter.
[Bracketed text indicates matter being deleted.]

**Title 1—OFFICE OF ADMINISTRATION
Division 15—Administrative Hearing Commission
Chapter 2—Licensing Cases Under Section 621.045,
RSMo**

PROPOSED RESCISSION

1 CSR 15-2.200 Subject Matter. This rule set out the matters to which this chapter applied.

PURPOSE: The commission is rescinding this rule because it is incorporating the procedure for licensing cases under section 621.045, RSMo 2000 into Chapter 1 CSR 15-3, as allowed by section 621.198, RSMo Supp. 2001.

AUTHORITY: section 621.198, RSMo 2000. Original rule filed Jan. 11, 2001, effective July 30, 2001. Rescinded: Filed June 3, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on August 2, 2002, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed rescission with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on July 31, 2002.

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RSMo**

PROPOSED RESCISSION

1 CSR 15-2.210 Definitions. This rule set out the definitions of terms used in the rules of the Administrative Hearing Commission.

PURPOSE: The commission is rescinding this rule because it is incorporating the procedure for licensing cases under section 621.045, RSMo 2000 into Chapter 1 CSR 15-3, as allowed by section 621.198, RSMo Supp. 2001.

AUTHORITY: section 621.198, RSMo 1986. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Rescinded: Filed June 3, 2002.

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

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PROPOSED RESCISSION

1 CSR 15-2.230 Computation of Time; Extensions of Time. This rule set forth the manner in which time periods would be computed.

PURPOSE: The commission is rescinding this rule because it is incorporating the procedure for licensing cases under section 621.045, RSMo 2000 into Chapter 1 CSR 15-3, as allowed by section 621.198, RSMo Supp. 2001.

AUTHORITY: section 621.198, RSMo 1986. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Rescinded: Filed June 3, 2002.

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

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PROPOSED RESCISSION

1 CSR 15-2.250 Practice by a Licensed Attorney; When Required. This rule stated when and how a party must be represented by a licensed attorney.

PURPOSE: The commission is rescinding this rule because it is incorporating the procedure for licensing cases under section 621.045, RSMo 2000 into Chapter 1 CSR 15-3, as allowed by section 621.198, RSMo Supp. 2001.

AUTHORITY: sections 621.035 and 621.198, RSMo 1986. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Rescinded: Filed June 3, 2002.

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

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PROPOSED RESCISSION

1 CSR 15-2.270 Service of Filings Other Than the Original Complaint. This rule required that anyone filing anything other than a complaint with the commission send copies to all parties.

PURPOSE: The commission is rescinding this rule because it is incorporating the procedure for licensing cases under section 621.045, RSMo 2000 into Chapter 1 CSR 15-3, as allowed by section 621.198, RSMo Supp. 2001.

AUTHORITY: sections 621.198 and 621.205, RSMo 1994. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed Oct. 31, 1994, effective May 28, 1995. Rescinded: Filed June 3, 2002.

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

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PROPOSED RESCISSION

1 CSR 15-2.290 Filing of Documents; Fax Filing; Posting Bond. This rule established procedures for filing documents and when they were deemed filed, and clarified the requirement for posting bonds.

PURPOSE: The commission is rescinding this rule because it is incorporating the procedure for licensing cases under section 621.045, RSMo 2000 into Chapter 1 CSR 15-3, as allowed by section 621.198, RSMo Supp. 2001.

AUTHORITY: sections 621.198 and 621.205, RSMo 2000. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed Oct. 31, 1994, effective May 28, 1995. Amended: Filed Jan. 11, 2001, effective July 30, 2001. Rescinded: Filed June 3, 2002.

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PROPOSED RESCISSION

1 CSR 15-2.320 Stays or Suspensions of Agency Action. This rule described the form and content of a motion for stay or suspension of any agency action, the number of copies required and who was served with a stay order.

PURPOSE: The commission is rescinding this rule because it is incorporating the procedure for licensing cases under section 621.045, RSMo 2000 into Chapter 1 CSR 15-3, as allowed by section 621.198, RSMo Supp. 2001.

AUTHORITY: section 621.198, RSMo 1986. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Rescinded: Filed June 3, 2002.

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PROPOSED RESCISSION

1 CSR 15-2.350 Complaints. This rule described the form and content of the complaints, the number of copies required, how the complaints were served and how they were amended.

PURPOSE: The commission is rescinding this rule because it is incorporating the procedure for licensing cases under section 621.045, RSMo 2000 into Chapter 1 CSR 15-3, as allowed by section 621.198, RSMo Supp. 2001.

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

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PROPOSED RESCISSION

1 CSR 15-2.380 Answers and Other Responsive Pleadings. This rule described who was required to file a responsive pleading, how it shall be filed, the form and content of the answer and how an answer was amended.

PURPOSE: The commission is rescinding this rule because it is incorporating the procedure for licensing cases under section 621.045, RSMo 2000 into Chapter 1 CSR 15-3, as allowed by section 621.198, RSMo Supp. 2001.

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

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PROPOSED RESCISSION

1 CSR 15-2.390 Intervention. This rule described who may intervene in an action and how to intervene.

PURPOSE: The commission is rescinding this rule because it is incorporating the procedure for licensing cases under section

621.045, RSMo 2000 into Chapter 1 CSR 15-3, as allowed by section 621.198, RSMo Supp. 2001.

AUTHORITY: section 621.198, RSMo 1986. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Rescinded: Filed June 3, 2002.

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PROPOSED RESCISSION

1 CSR 15-2.410 Closing of Case Records and Hearings. This rule described the procedure for closing records or a hearing in a particular case.

PURPOSE: The commission is rescinding this rule because it is incorporating the procedure for licensing cases under section 621.045, RSMo 2000 into Chapter 1 CSR 15-3, as allowed by section 621.198, RSMo Supp. 2001.

AUTHORITY: section 621.198, RSMo 1986. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Rescinded: Filed June 3, 2002.

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PROPOSED RESCISSION

1 CSR 15-2.420 Discovery. This rule explained the manner in which discovery may be obtained.

PURPOSE: The commission is rescinding this rule because it is incorporating the procedure for licensing cases under section 621.045, RSMo 2000 into Chapter 1 CSR 15-3, as allowed by section 621.198, RSMo Supp. 2001.

AUTHORITY: section 621.198, RSMo 1986. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Rescinded: Filed June 3, 2002.

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

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PROPOSED RESCISSION

1 CSR 15-2.430 Dismissal. This rule described how a case may be dismissed with or without prejudice.

PURPOSE: The commission is rescinding this rule because it is incorporating the procedure for licensing cases under section 621.045, RSMo 2000 into Chapter 1 CSR 15-3, as allowed by section 621.198, RSMo Supp. 2001.

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

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PROPOSED RESCISSION

1 CSR 15-2.450 Determination of Cases Without Hearing. This rule provided for disposition of a contested case by stipulation, agreed settlement or by disposition in the nature of default judgment, judgment on the pleadings or summary judgment as required by section 536.073, RSMo Supp. 1990.

PURPOSE: The commission is rescinding this rule because it is incorporating the procedure for licensing cases under section 621.045, RSMo 2000 into Chapter 1 CSR 15-3, as allowed by section 621.198, RSMo Supp. 2001.

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

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PROPOSED RESCISSION

1 CSR 15-2.470 Prehearing Conferences. This rule described the setting and subject matter of the prehearing conference.

PURPOSE: The commission is rescinding this rule because it is incorporating the procedure for licensing cases under section 621.045, RSMo 2000 into Chapter 1 CSR 15-3, as allowed by section 621.198, RSMo Supp. 2001.

AUTHORITY: section 621.198, RSMo 1986. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Rescinded: Filed June 3, 2002.

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PROPOSED RESCISSION

1 CSR 15-2.480 Hearings on Motions. This rule described how a party might obtain oral argument or an evidentiary hearing on a motion.

PURPOSE: The commission is rescinding this rule because it is incorporating the procedure for licensing cases under section 621.045, RSMo 2000 into Chapter 1 CSR 15-3, as allowed by section 621.198, RSMo Supp. 2001.

AUTHORITY: section 621.198, RSMo 1986. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Rescinded: Filed June 3, 2002.

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PROPOSED RESCISSION

1 CSR 15-2.490 Hearings on Complaints. This rule described the procedures for the setting of, continuance of and order of proof in hearings on complaints.

PURPOSE: The commission is rescinding this rule because it is incorporating the procedure for licensing cases under section 621.045, RSMo 2000 into Chapter 1 CSR 15-3, as allowed by section 621.198, RSMo Supp. 2001.

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

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PROPOSED RESCISSION

1 CSR 15-2.510 Transcripts. This rule set forth procedures for the availability and correction of a transcript and when the hearing reporter may destroy records.

PURPOSE: The commission is rescinding this rule because it is incorporating the procedure for licensing cases under section 621.045, RSMo 2000 into Chapter 1 CSR 15-3, as allowed by section 621.198, RSMo Supp. 2001.

AUTHORITY: section 621.198, RSMo 1986. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Rescinded: Filed June 3, 2002.

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1 CSR 15-2.530 Bench Rulings and Memorandum Decisions. This rule established a procedure for parties to obtain a bench ruling or a memorandum decision, as provided by section 536.068, RSMo Supp. 1990.

PURPOSE: The commission is rescinding this rule because it is incorporating the procedure for licensing cases under section 621.045, RSMo 2000 into Chapter 1 CSR 15-3, as allowed by section 621.198, RSMo Supp. 2001.

AUTHORITY: section 621.198, RSMo 1986. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Rescinded: Filed June 3, 2002.

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PROPOSED RESCISSION

1 CSR 15-2.560 Fees and Expenses. This rule established a procedure to allow parties to make application for fees and expenses when authorized by statute or other law.

PURPOSE: The commission is rescinding this rule because it is incorporating the procedure for licensing cases under section 621.045, RSMo 2000 into Chapter 1 CSR 15-3, as allowed by section 621.198, RSMo Supp. 2001.

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

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

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NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on August 2, 2002, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed rescission with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on July 31, 2002.

Title 1—OFFICE OF ADMINISTRATION
Division 15—Administrative Hearing Commission
Chapter 2—Licensing Cases Under Section 621.045,
RSMo

PROPOSED RESCISSION

1 CSR 15-2.580 Certifications of Records. This rule set forth the content of the record and the procedure by which the commission caused the record to be certified to a court or to a licensing agency.

PURPOSE: The commission is rescinding this rule because it is incorporating the procedure for licensing cases under section 621.045, RSMo 2000 into Chapter 1 CSR 15-3, as allowed by section 621.198, RSMo Supp. 2001.

AUTHORITY: section 621.198, RSMo 1986. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Rescinded: Filed June 3, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on August 2, 2002, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed rescission with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on July 31, 2002.

Title 1—OFFICE OF ADMINISTRATION
Division 15—Administrative Hearing Commission
Chapter 3—[Sales and Use and Income Tax Cases
Under Section 621.050, RSMo, and All Other
Contested Cases, Except Licensing Cases Under
Section 621.045, RSMo] Procedural Regulations

PROPOSED AMENDMENT

1 CSR 15-3.200 Subject Matter. The commission is amending provisions of this rule.

PURPOSE: This amendment shows that this chapter incorporates the procedure for licensing cases under section 621.045, RSMo 2000, as allowed by section 621.198, RSMo Supp. 2001.

This chapter 1 CSR 15-3 [shall apply to all contested cases except licensing cases under section 621.045, RSMo] contains all procedural regulations of the Administrative Hearing Commission.

AUTHORITY: section 621.198, RSMo [2000] Supp. 2001. Original rule filed Jan. 11, 2001, effective July 30, 2001. Amended: Filed June 3, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on August 2, 2002, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on July 31, 2002.

Title 1—OFFICE OF ADMINISTRATION
Division 15—Administrative Hearing Commission
Chapter 3—[Sales and Use and Income Tax Cases
Under Section 621.050, RSMo, and All Other
Contested Cases, Except Licensing Cases Under
Section 621.045, RSMo] Procedural Regulations

PROPOSED AMENDMENT

1 CSR 15-3.210 Definitions. The commission is amending section (1).

PURPOSE: This amendment incorporates the procedure for licensing cases under section 621.045, RSMo 2000 into this chapter, as allowed by section 621.198, RSMo Supp. 2001.

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

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

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

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

[(A)] (D) **Commission**—the Administrative Hearing Commission or any commissioner;

[(B)] (E) **Commissioner**—any administrative hearing commissioner, including any acting commissioner;

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

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

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

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

(J) **Licensee**—any person holding a license;

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

[(F)] (L) **Petitioner**—the party filing the complaint;

[(G)] (M) **Pleading**—a complaint or a responsive pleading;

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

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

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

AUTHORITY: section 621.198, RSMo [2000] Supp. 2001. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended:

Filed Jan. 11, 2001, effective July 30, 2001. Amended: Filed June 3, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on August 2, 2002, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on July 31, 2002.

Title 1—OFFICE OF ADMINISTRATION
Division 15—Administrative Hearing Commission
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Section 621.045, RSMo] Procedural Regulations

PROPOSED AMENDMENT

1 CSR 15-3.250 Practice by a Licensed Attorney; When Required. The commission is amending sections (1)–(3).

PURPOSE: This amendment clarifies when and how a party must be represented by a licensed attorney.

(1) Any individual may [represent him/herself] present that individual's own case without a licensed attorney.

(2) Any individual may file a complaint on behalf of another person, including a corporation[, who is not an applicant] or other legal entity.

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

AUTHORITY: section 621.198, RSMo [1986] Supp. 2001. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed June 3, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on August 2, 2002, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, Karen A. Winn, Commis-

sioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on July 31, 2002.

Title 1—OFFICE OF ADMINISTRATION
Division 15—Administrative Hearing Commission
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Section 621.045, RSMo] Procedural Regulations

PROPOSED AMENDMENT

1 CSR 15-3.320 Stays or Suspensions of Any Action From which Petitioner Is Appealing. The commission is amending sections (1) and (3).

PURPOSE: This amendment states the scope of the commission's stay power as set forth in section 621.035, RSMo 2000, and incorporates the procedure for licensing cases under section 621.045, RSMo 2000 into this chapter, as allowed by section 621.198, RSMo Supp. 2001.

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

(3) **Specific Cases.**

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

1. The movant must show:

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

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

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

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

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

AUTHORITY: section 621.198, RSMo [2000] Supp. 2001. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed Jan. 11, 2001, effective July 30, 2001. Amended: Filed June 3, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on August 2, 2002, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building,

Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on July 31, 2002.

Title 1—OFFICE OF ADMINISTRATION
Division 15—Administrative Hearing Commission
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Under Section 621.050, RSMo, and All Other
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Section 621.045, RSMo] Procedural Regulations

PROPOSED AMENDMENT

1 CSR 15-3.350 Complaints. The commission is amending sections (1) and (2).

PURPOSE: This amendment incorporates the procedure for licensing cases under section 621.045, RSMo 2000 into this chapter, as allowed by section 621.198, RSMo Supp. 2001.

(1) [Content] In General.

(B) Petitioner shall include in the complaint:

1. The full name, address and telephone number of—
 - A. Petitioner; and
 - B. Any attorney representing petitioner;

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

3. [A description of the action which petitioner is appealing and the date of any written notice of such action; and

4.] As far as practical, facts in numbered paragraphs[, each of which shall contain a single set of circumstances] stating the relief sought and the reason for granting it.

[(C) Petitioner shall accompany the complaint with a copy of any written notice of the action from which petitioner appeals.]

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

[(E) The complaint may contain a motion for stay].

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

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

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

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

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

3. Any conduct that the licensee has committed that is cause for discipline, with sufficient specificity to enable the licensee to address the charge at hearing; and

4. Any provision of law that allows discipline for that conduct.

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

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

2. May include a motion for stay.

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

(D) In a case arising pursuant to Chapter 407, RSMo, including cases relating to the protest of an action taken by a motor vehicle, motorcycle or all-terrain vehicle manufacturer, distributor or representative pursuant to a franchise agreement, the

petition shall include a filing fee equal to the filing fee of the circuit court of Cole County. The provisions of this subsection (2)(D) of this regulation shall expire on November 30, 2003.

AUTHORITY: sections 621.198[, RSMo 2000] and 621.053, RSMo Supp. 2001. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed Oct. 31, 1994, effective May 28, 1995. Amended: Filed Jan. 11, 2001, effective July 30, 2001. Amended: Filed June 3, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on August 2, 2002, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on July 31, 2002.

Title 1—OFFICE OF ADMINISTRATION
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Section 621.045, RSMo] Procedural Regulations

PROPOSED AMENDMENT

1 CSR 15-3.380 Answers and Other Responsive Pleadings. The commission is amending sections (2) and (7).

PURPOSE: This amendment adopts the time limits currently specified for filing an answer under the rules governing civil practice in circuit courts in Missouri as required by section 536.068, RSMo 2000. It refers to new rule 1 CSR 15-2.425 for the consequences of failing to comply. It also incorporates the procedure for licensing cases under section 621.045, RSMo 2000 into this chapter, as allowed by section 621.198, RSMo Supp. 2001.

(2) An answer to the complaint shall—

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

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

(D) Be signed by the respondent or [his/her] the respondent's attorney[.]; and

(E) [Describe any conduct that is cause for the action that petitioner is appealing with sufficient specificity to enable the petitioner to prepare for hearing;] When the petitioner seeks review of respondent's action, include—

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

[(F) State which provisions of constitution, statute, or regulation provide the legal basis for the action that petitioner is appealing;]

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

[[G)] 3. [Include a] A copy of any written notice of the action of which petitioner seeks review, unless such written notice was included in the complaint; and

[[H)] 4. [Set forth facts which] Facts that show that the respondent has complied with any provisions of law requiring [him/her] the respondent to notify the [licensee] petitioner of the action that petitioner is appealing.

(3) The respondent shall file any responsive pleading [no later than thirty (30) days after receiving the notice of complaint.] within the following times—

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

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

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

(7) Failure to File.

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

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

1. Admitted the facts pleaded in the complaint;
2. Waived any defense to the complaint; and
3. Defaulted on any issue raised in the complaint.

AUTHORITY: section 621.198, RSMo [2000] Supp. 2001. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed Oct. 31, 1994, effective May 28, 1995. Amended: Filed Jan. 11, 2001, effective July 30, 2001. Amended: Filed June 3, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on August 2, 2002, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on July 31, 2002.

Title 1—OFFICE OF ADMINISTRATION

Division 15—Administrative Hearing Commission Chapter 3—[Sales and Use and Income Tax Cases Under Section 621.050, RSMo, and All Other Contested Cases, Except Licensing Cases Under Section 621.045, RSMo] Procedural Regulations

PROPOSED AMENDMENT

1 CSR 15-3.390 Intervention. The commission is amending sub-section (2)(C).

PURPOSE: This amendment adapts the language of the rule to persons who are legal entities.

(2) A motion to intervene shall—

(C) Be signed by the person or [his/her] the person's attorney;

AUTHORITY: section [628.198] 621.198, RSMo [1986] Supp. 2001. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed June 3, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on August 2, 2002, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on July 31, 2002.

Title 1—OFFICE OF ADMINISTRATION

Division 15—Administrative Hearing Commission Chapter 3—[Sales and Use and Income Tax Cases Under Section 621.050, RSMo, and All Other Contested Cases, Except Licensing Cases Under Section 621.045, RSMo] Procedural Regulations

PROPOSED AMENDMENT

1 CSR 15-3.410 Closing of Case Records and Hearings. The commission is amending the Purpose and the text of the rule.

PURPOSE: This amendment clarifies that the Administrative Hearing Commission must have legal authority to close records or hearings, and requires a motion under this rule to cite such legal authority.

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

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

AUTHORITY: section 621.198, RSMo [1986] Supp. 2001. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed June 3, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on August 2, 2002, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on July 31, 2002.

**Title 1—OFFICE OF ADMINISTRATION
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Section 621.045, RSMo] Procedural Regulations**

PROPOSED AMENDMENT

1 CSR 15-3.420 Discovery. The commission is amending subsections (2)(A) and (C) and adding a new section (5).

PURPOSE: This amendment alters the prescribed certificates of service to accommodate a party without an attorney and reflect filing dates in the twenty-first century, and clarifies the how to enforce discovery.

(2) [Requests for Admissions, Interrogatories and Requests for Production or Inspection] Written Interrogatories; Production of Documents or Things or Permission to Enter Upon Land or Other Property, For Inspection and Other Purposes; and Physical and Mental Examinations.

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

I served the original and (number of) copies of these [(interrogatories/requests for admissions)] (written interrogatories/ production of documents or things or permission to enter upon land or other property, for inspection and other purposes/physical and mental examinations/requests for admission) on (name of parties) this _____ day of _____, [19] 20 _____.

[Attorney _____]
(Signature)

The party shall file a copy of the certificate with the commission. The party shall not file [interrogatories or requests for document production or inspect] written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; and physical and mental examinations with the commission unless the commission so orders. The party may file requests for admissions with the commission. The party shall serve the original discovery on the interrogated party's counsel or on an unrepresented interrogated party, and copies on all other counsel or unrepresented parties.

(C) The party responding to requests for admissions or interrogatories shall complete them by typewriting or printing the answer or objection to each question in the space provided. If the space is insufficient, the party shall reply by affidavit, clearly indi-

cate so in the space provided, and attach the affidavit to the interrogatories or requests for admissions. Each response shall include a certificate of service in substantially the following form:

I served the original of these completed [(interrogatories/requests for admissions)] (written interrogatories/ requests for admission) on (name of party) and sent (number of) copies to (name of parties) this _____ day of _____, [19] 20 _____.

[Attorney _____]
(Signature)

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

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

AUTHORITY: section 621.198, RSMo [1986] Supp. 2001. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed June 3, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on August 2, 2002, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on July 31, 2002.

**Title 1—OFFICE OF ADMINISTRATION
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Chapter 3—Procedural Regulations**

PROPOSED RULE

1 CSR 15-3.425 Sanctions

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

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

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

- (C) Apprise the commission of a current mailing address.
- (2) Sanctions available under this rule include without limitation:
- (A) Striking all or any part of the party's pleading;
 - (B) Deeming all or any part of an opposing party's pleading admitted; or
 - (C) Barring or striking all or any evidence on any issue.
- (3) The commission shall determine whether to impose any sanction, and the appropriate degree of such sanction, based on the facts of each case.

AUTHORITY: section 621.198, RSMo Supp. 2001. Original rule filed June 3, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on August 2, 2002, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed rule with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on July 31, 2002.

**Title 1—OFFICE OF ADMINISTRATION
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621.045, RSMo**

PROPOSED RESCISSION

1 CSR 15-3.430 Dismissal. This rule described how a case may be dismissed with or without prejudice.

PURPOSE: The commission is rescinding this rule because proposed rule 1 CSR 15-3.440 simplifies and clarifies the procedures described in this rule.

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

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on August 2, 2002, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed rescission with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on July 31, 2002.

**Title 1—OFFICE OF ADMINISTRATION
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PROPOSED RULE

1 CSR 15-3.440 Disposing of a Case Without a Hearing

PURPOSE: This rule provides for disposition by agreed settlement, stipulation, and consent order; motion to dismiss; relief in the nature of judgment on the pleadings and summary judgment as required by section 536.073.3, RSMo 2000; and other procedures.

(1) Settlement. Settlement means agreed settlements and consent agreements. The parties may settle all or any part of the case without any action by the commission, where such settlement is permitted by law. If the parties settle all of the case, petitioner shall file a notice of dismissal as described in section (2) of this rule.

(2) Notice of Dismissal. Petitioner may voluntarily dismiss the complaint as set forth in this section. Petitioner shall effect a voluntary dismissal by filing a notice of dismissal. The notice of dismissal shall state that petitioner dismisses the complaint.

(A) A notice of dismissal dismisses the complaint, and is effective as of the date on which petitioner files it, without any action by the commission.

(B) Petitioner may dismiss the complaint without prejudice:

1. Before the filing of a motion for decision without hearing under section (3) of this rule or the introduction of evidence at the hearing, whichever is earlier, without the commission's leave.

2. After the filing of a motion for decision without hearing under section (3) of this rule or the introduction of evidence at the hearing, whichever is earlier, only with leave of the commission or with written consent of the adverse party. The commission shall grant leave freely when justice so requires.

(3) Summary Determination and Other Decisions Without Hearing. A decision without hearing includes decisions on stipulated facts, consent orders, involuntary dismissals, relief in the nature of judgment on the pleadings, and relief in the nature of summary judgment. It does not include the parties' settlement under section (1) of this rule or petitioner's notice of dismissal under section (2) of this rule. Summary determination includes any motion for a decision without hearing other than a consent order under subsection (C) of this section or involuntary dismissal under subsection (D) of this section. A party may file a motion for a decision without a hearing on all or any part of the complaint.

(A) Timing.

1. In any case, other than those set forth in paragraph 2. of this subsection, a motion for decision without hearing shall be filed no less than forty-five (45) days before the hearing.

2. In any case in which any legal authority other than the commission sets any maximum time for conducting a hearing on the merits of the complaint, no party shall file a motion for decision without hearing without leave of the commission.

(B) Standard. The commission may grant a motion for decision without hearing if undisputed facts entitle any party, including a party who did not file such motion, to a favorable decision on all or any part of the case. A party may establish such material facts by stipulation, the adverse party's pleadings or discovery responses, affidavits, or other evidence admissible under the law. A party's own pleadings do not, alone, establish any fact or put any fact genuinely in dispute.

(C) Consent Orders. Parties seeking a consent order shall submit the case on a motion that includes substantially the following language.

The parties stipulate that (*party*) committed the following conduct:

(*Conduct*).

(*Party*) admits that such conduct is cause for (*the relief sought*) under the following legal authority:

(*Legal Authority*).

Therefore, the parties agree to (*the relief sought*).

The commission may deny any motion for a consent order that does not contain the facts necessary to support the relief sought under the cited legal authority.

(D) Involuntary Dismissal. Involuntary dismissal means a disposition of the case that does not reach the merits of the complaint. Grounds for involuntary dismissal of the complaint include without limitation:

1. Lack of jurisdiction; and
2. The bases for a sanction set forth at regulation 1 CSR 15-3.425.

(E) Argument. On any motion under section (3) of this rule, the commission may allow such written argument as it deems helpful and oral argument as provided in rule 1 CSR 15-3.480.

AUTHORITY: sections 536.073, RSMo 2000 and 621.198, RSMo Supp. 2001. Original rule filed June 3, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on August 2, 2002, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed rule with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on July 31, 2002.

**Title 1—OFFICE OF ADMINISTRATION
Division 15—Administrative Hearing Commission
Chapter 3—Sales and Use and Income Tax Cases
Under Section 621.050, RSMo, and All Other
Contested Cases, Except Licensing Cases Under Section
621.045, RSMo**

PROPOSED RESCISSION

1 CSR 15-3.450 Determination of Cases Without Hearing.

This rule provided for disposition of a contested case by stipulation, agreed settlement or by disposition in the nature of default judgment, judgment on the pleadings or summary judgment as required by section 536.073, RSMo 1990.

PURPOSE: The commission is rescinding this rule because proposed rule 1 CSR 15-3.440 simplifies and clarifies the procedures described in this rule.

AUTHORITY: sections 536.073.(2) and 621.198, RSMo 2000. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed Oct. 31, 1994, effective May 28, 1995. Amended: Filed Jan. 11, 2001, effective July 30, 2001. Rescinded: Filed June 3, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on August 2, 2002, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed rescission with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on July 31, 2002.

**Title 1—OFFICE OF ADMINISTRATION
Division 15—Administrative Hearing Commission
Chapter 3—[Sales and Use and Income Tax Cases
Under Section 621.050, RSMo, and All Other
Contested Cases, Except Licensing Cases Under
Section 621.045, RSMo] Procedural Regulations**

PROPOSED AMENDMENT

1 CSR 15-3.470 Prehearing Conferences and Mediation. The commission is amending provisions of this rule.

PURPOSE: This amendment states that the commission may help the parties discuss the possibilities for settlement.

On its own motion or that of any party, the commission may order a prehearing conference to discuss matters pertinent to the [action] case. **The prehearing conference may take the form of a mediation.** All parties or their legal counsels, **or both**, shall attend the prehearing conference and be prepared to discuss the matters, **including the possibilities for settlement.**

AUTHORITY: section 621.198, RSMo [1986] Supp. 2001. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed June 3, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on August 2, 2002, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on July 31, 2002.

Title 1—OFFICE OF ADMINISTRATION
Division 15—Administrative Hearing Commission
Chapter 3—[Sales and Use and Income Tax Cases
Under Section 621.050, RSMo, and All Other
Contested Cases, Except Licensing Cases Under
Section 621.045, RSMo] Procedural Regulations

PROPOSED AMENDMENT

1 CSR 15-3.490 Hearings on Complaints; Default. The commission is amending the purpose, sections (1), (4) and (5), and adding section (6).

PURPOSE: This amendment allows the commission to give the notice of hearing by publication where expressly allowed by statute and sets forth the procedure for default as required by sections 536.060 and 536.073, RSMo 2000.

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

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

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

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

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

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

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

AUTHORITY: section 621.198, RSMo [2000] Supp. 2001. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed Oct. 31, 1994, effective May 28, 1995. Amended: Filed Jan. 11, 2001, effective July 30, 2001. Amended: Filed June 3, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on August 2, 2002, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on July 31, 2002.

Title 1—OFFICE OF ADMINISTRATION
Division 15—Administrative Hearing Commission
Chapter 3—[Sales and Use and Income Tax Cases
Under Section 621.050, RSMo, and All Other
Contested Cases, Except Licensing Cases Under
Section 621.045, RSMo] Procedural Regulations

PROPOSED AMENDMENT

1 CSR 15-3.580 Certifications of Records. The commission is amending section (2).

PURPOSE: This amendment incorporates the procedure for licensing cases under section 621.045, RSMo 2000, into this chapter, as allowed by section 621.198, RSMo Supp. 2001.

(2) [Filing in the Courts.] **The commission shall certify and transmit the record as follows.**

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

[(A)] (B) **Circuit Court.** The commission shall cause the record to be certified to, **and filed with**, a circuit court as provided in Supreme Court Rule 100.01 within thirty (30) days of the date on which it receives a copy of the petition for judicial review as set forth in section 536.110, RSMo [(1986)] 2000.

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

[(C)] *The commission shall file the record with the court.*

AUTHORITY: section 621.198, RSMo [1986] Supp. 2001. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed June 3, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing is scheduled for 8:30 a.m. on August 2, 2002, at the Administrative Hearing Commission's official residence—Room 640, Truman State Office Building, Jefferson City, Missouri. Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, Karen A. Winn, Commissioner, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received no later than 5:00 p.m. on July 31, 2002.

**Title 1—OFFICE OF ADMINISTRATION
Division 40—Purchasing and Materials Management
Chapter 1—Procurement**

PROPOSED RULE

1 CSR 40-1.090 Waiver of Bidding Procedures for the Purchase of Services for Patients, Residents and Clients

PURPOSE: This rule waives Chapter 34, RSMo, bidding procedures for the purchase of services for patients, residents, and clients.

(1) The commissioner of administration has determined that the Department of Mental Health's services for its patients, residents and clients can best be purchased directly by the department with funds appropriated for that purpose, and that the bidding procedures of Chapter 34, RSMo for such purposes are therefore waived.

AUTHORITY: section 630.405.5, RSMo Supp. 2001. Original rule filed June 3, 2002.

PUBLIC COST: This proposed rule is anticipated to cost state agencies and political subdivisions less than five hundred dollars (\$500) in the aggregate.

PRIVATE COST: This proposed rule is anticipated to cost private entities less than five hundred dollars (\$500) in the aggregate.

NOTICE TO SUBMIT COMMENTS: Anyone may submit comments in support of or opposition to this proposed rule. In preparing your comments, please include the regulatory citation and the *Missouri Register* page number. Please explain why you agree or disagree with the proposed change and include alternative language. Written comments must be postmarked or received by August 15, 2002. Comments may be mailed or faxed to Mr. Jason Heldenbrand, Office of Administration, PO Box 809, Jefferson City, MO 65102. The fax number is (573) 751-1212.

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

PROPOSED AMENDMENT

4 CSR 240-2.080 Pleadings, Filing, and Service. The commission is adding section (21).

PURPOSE: This amendment will require parties before the Missouri Public Service Commission to file a list of issues in a certain format.

(21) Any list of issues ordered by the commission must contain one (1) or more questions presented for decision, stated in the following form per issue: in three (3) separate sentences, with factual and legal premises, followed by a short question; in no more than seventy-five (75) words; and with enough facts woven in that the commission will understand how the question arises in the case.

(A) The questions must be clear and brief, using the style of the following examples of issue statements, which illustrate the clarity and brevity that the parties should aim for:

1. Example A: The Administrative Procedures Act does not require the same administrative law judge to hear the case and write the final order. ABC Utility Company filed an appeal based on the fact that the administrative law judge who

wrote the final order was not the administrative law judge who heard the case. Is it reversible error for one administrative law judge to hear the case and a different administrative law judge to write the final opinion?

2. Example B: For purposes of establishing rates, ABC Utility Company is entitled to include in its costs expenses relating to items that are used or useful in providing services to its customers. ABC Utility Company has spent money to clean up environmental damages resulting from the operation of manufactured-gas plants some 70 to 80 years ago. Should ABC Utility Company be allowed to include these expenses among its costs in establishing its future natural gas rates?

AUTHORITY: section 386.410, RSMo 2000. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. For intervening history, please consult the *Code of State Regulations*. Amended: Filed May 21, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Public Service Commission, Dale Hardy Roberts, Secretary, PO Box 360, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. Comments should refer to Case No. AX-2002-II8 and be filed with an original and six (6) copies. No public hearing is scheduled.

**Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 2—Air Quality Standards and Air Pollution
Control Rules Specific to the Kansas City Metropolitan
Area**

PROPOSED RESCISSION

10 CSR 10-2.280 Control of Emissions From Perchloroethylene Dry Cleaning Installations. This rule established compliance methods, compliance schedules, and exceptions for perchloroethylene dry cleaning installations operating in Clay, Jackson and Platte Counties. The incorporation by reference of the federal Maximum Achievable Control Technology regulation for dry cleaning installations into 10 CSR 10-6.075 has made this regulation redundant. If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency for removal from the Missouri State Implementation Plan.

PURPOSE: This regulation is proposed for rescission because it has been replaced by 10 CSR 10-6.075. Rescinding this regulation should help eliminate redundant and conflicting requirements. The evidence supporting the need for this proposed rulemaking are: verbal comments received from state and local air inspectors documented in an e-mail, faxed comments from the U.S. Environmental Protection Agency, the definition of perchloroethylene as an organic compound with negligible photochemical reactivity in 40 CFR Part 51.100, and the incorporation by reference of the federal perchloroethylene dry cleaning Maximum Achievable Control Technology regulation into 10 CSR 10-6.075. This evidence is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address

and phone number listed in the Notice of Public Hearing at the end of this rule.

AUTHORITY: Chapter 203, RSMo 1986. Original rule filed March 13, 1980, effective Sept. 12, 1980. Amended: Filed Nov. 10, 1981, effective May 13, 1982. Rescinded: Filed May 21, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed rescission will begin at 9:00 a.m., August 29, 2002. The public hearing will be held at the Harry S Truman State Office Building, Room 490, 301 W. High Street, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Roger D. Randolph, Director, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., September 5, 2002. Written comments shall be sent to Chief, Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 5—Air Quality Standards and Air Pollution Control Rules Specific to the St. Louis Metropolitan Area

PROPOSED RESCISSION

10 CSR 10-5.320 Control of Emissions From Perchloroethylene Dry Cleaning Installations. This rule established compliance methods, compliance schedules, and exceptions for perchloroethylene dry cleaning installations operating in St. Louis City and Jefferson, St. Charles, Franklin and St. Louis Counties. The incorporation by reference of the federal Maximum Achievable Control Technology regulation for dry cleaning installations into 10 CSR 10-6.075 has made this regulation redundant. If the commission adopts this rule action, it will be submitted to the U.S. Environmental Protection Agency for removal from the Missouri State Implementation Plan.

PURPOSE: This regulation is proposed for rescission because it has been replaced by 10 CSR 10-6.075. Rescinding this regulation should help eliminate redundant and conflicting requirements. The evidence supporting the need for this proposed rulemaking are: verbal comments received from state and local air inspectors documented in an e-mail, faxed comments from the U.S. Environmental Protection Agency, the definition of perchloroethylene as an organic compound with negligible photochemical reactivity in 40 CFR Part 51.100, and the incorporation by reference of the federal perchloroethylene dry cleaning Maximum Achievable Control Technology regulation into 10 CSR 10-6.075. This evidence is available for viewing at the Missouri Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule.

AUTHORITY: section 643.050, RSMo 1994. Original rule filed March 13, 1980, effective Sept. 12, 1980. Amended: Filed Nov. 10, 1981, effective May 13, 1982. Amended: Filed Oct. 4, 1988, effective March 11, 1989. Rescinded: Filed May 21, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed rescission will begin at 9:00 a.m., August 29, 2002. The public hearing will be held at the Harry S Truman State Office Building, Room 490, 301 W. High Street, Jefferson City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Roger D. Randolph, Director, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., September 5, 2002. Written comments shall be sent to Chief, Planning Section, Missouri Department of Natural Resources' Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.

Title 10—DEPARTMENT OF NATURAL RESOURCES
Division 10—Air Conservation Commission
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods and Air Pollution Control Regulations for the Entire State of Missouri

PROPOSED AMENDMENT

10 CSR 10-6.320 Sales Tax Exemption. The commission proposes to amend the Purpose section, sections (3), (4), and (5), subsection (2)(B), and add subsections (1)(C) and (1)(D). If the commission adopts this rule action, it will be the department's intention not to submit this rule action to the Environmental Protection Agency for inclusion in the Missouri State Implementation Plan because this is an administrative rule related to state sales tax exemptions and is not federally enforceable.

PURPOSE: This amendment will set forth a list of automotive parts used for air pollution control purposes that are sales tax exempt and the procedure to claim a sales tax exemption for the listed automotive parts used for air pollution control purposes. The evidence supporting the need for this proposed rulemaking, per section 536.016, RSMo, is a letter from retail industry requesting sales tax exemption for automotive parts used for air pollution control and a letter from the Attorney General's Office agreeing that automotive parts used for air pollution control are sales tax exempt. This evidence is available for viewing at the Department of Natural Resources' Air Pollution Control Program at the address and phone number listed in the Notice of Public Hearing at the end of this rule.

PURPOSE: This rule sets forth the criteria used by the **Missouri Air Conservation [c]Commission** to determine eligibility for sales tax exemption for items purchased or leased for the purpose of preventing, abating or monitoring air pollution in accordance with section 144.030.2(14), RSMo.

(1) Applicability.

(C) Eligible applicants who are persons engaged in air pollution control in Missouri may apply for sales tax exemption providing they are not applying for any other sales tax exemption under a different program for the same machinery, equipment, appliances and devices.

(D) Sales Tax Exemption Criteria.

1. The following criteria shall be used to evaluate sales tax exemption requests except automotive parts:

A. The machinery, equipment, appliance and device removes or captures air pollutants from a system or process, or it monitors the levels of the pollutant; and its function within the system or process is limited to removing, capturing, or monitoring air pollution;

B. The machinery, equipment, appliance and device is a portion or all of a system or process pretreating air prior to its discharge into the atmosphere; and

C. Materials and supplies if they are required for the installation, construction or reconstruction of items in subparagraph (3)(B)1.A. and will not be used for other functions.

2. The following automotive parts that are air pollution control devices and/or appliances that are eligible sales tax exempt are:

A. Air injection parts;

B. Air pump check valve;

C. Catalytic converters (universal converters, direct fit converters, converter kits);

D. Exhaust gas recirculation (EGR) valves;

E. Evaporative canister and canister purge valve;

F. Positive crankcase ventilation (PCV) valves; and

G. Smog pumps.

3. The sales tax exemption does not apply to pollution control devices on existing automobiles when purchased new or used. This exemption is for the purchase of replacement parts for an automobile.

4. The director may review new technology not listed above related to automotive parts used to control air pollution for possible exemption.

(2) Definitions.

(B) Definitions [for other] of certain terms [used] specified in this rule, other than those defined in this rule section, may be found in 10 CSR 10-6.020(2)].

(3) General Provisions. This section sets forth the processes used by the Missouri Department of Natural Resources to evaluate applications for sales/use tax exemption certificates for items purchased or leased for the purpose of air pollution control. Application processes are as follows:

(A) [The following criteria shall be used to evaluate applications for sales tax exemption:] Applications for sales/use tax exemption certificates (other than for automotive parts)—

1. The machinery, equipment, appliance and device removes or captures air pollutants from a system or process, or it monitors the levels of the pollutant; and its function within the system or process is limited to removing, capturing, or monitoring air pollution;

2. The machinery, equipment, appliance and device is a portion or all of a system or process pretreating air prior to its discharge into the atmosphere; and

3. Materials and supplies if they are required for the installation, construction or reconstruction of items in subsection (1)(A) and will not be used for other functions.]

[(B) Sales tax exemption applications for air pollution machinery and material shall be submitted on forms provided by the department. There is a maximum two (2)-year time limit from date of purchase on applications.]

1. Machinery, equipment, appliances, and devices purchased or leased and used solely for the purpose of preventing,

abating, or monitoring air pollution, and materials and supplies solely required for the installation, construction, or reconstruction of such machinery, equipment, appliances, and devices as provided by this rule shall be submitted on the application form(s) provided by the Missouri Department of Natural Resources. The application shall be submitted to the Missouri Department of Natural Resources, Air Pollution Control Program, PO Box 176, Jefferson City, MO 65102.

[[C]] 2. The department will review the application and approve, partially approve, or deny the sales tax exemption request. If approved or partially approved, the department will notify the Missouri Department of Revenue which will forward a [State of] Missouri [Exemption from Missouri] Sales [and] Use Tax [on Purchases certificate] Exemption Certificate for Pollution Control to the applicant. If the application is denied, the department shall send a written [notice] registered letter to the applicant. Applicants who are denied a [sales tax exemption] certification shall have a period of thirty (30) days from the issuance of the notice of denial to appeal such denial to the Missouri Air Conservation Commission, P[.]O[.] Box 176, Jefferson City, MO 65102-0176. [An additional three (3) days will be added for mail time for a total of thirty-three (33) days from the denial issuance.]

3. There is a three (3)-year time limit from the date of the purchase or the lease to file an application for a sales tax refund with the Missouri Department of Revenue. The filing of a request for an exemption certificate does not constitute an application for a refund. See Department of Revenue regulations for the refund procedure.

(B) Sales tax exemption applications for automotive parts— The retailer and purchaser of eligible sales tax exempt automotive parts shall complete the Missouri Department of Revenue form Sales/Use Tax Exemption Certificate at the point of sale.

(4) Reporting and Record Keeping [(not applicable)]. The seller and purchaser shall retain the completed Sales/Use Tax Exemption Certificate for audit purposes for five (5) years.

(5) Test Methods. [(not applicable)] (Not Applicable)

AUTHORITY: section 643.050, RSMo [Supp. 1996] 2000. Original rule filed Dec. 13, 1996, effective July 30, 1997. Amended: Filed May 24, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: A public hearing on this proposed amendment will begin at 9:00 a.m., September 26, 2002. The public hearing will be held at the Kansas City Marriott Downtown, Andy Kirk A/B Room, 200 W. 12th Street, Kansas City, Missouri. Opportunity to be heard at the hearing shall be afforded any interested person. Written request to be heard should be submitted at least seven (7) days prior to the hearing to Roger D. Randolph, Director, Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176, (573) 751-4817. Interested persons, whether or not heard, may submit a written statement of their views until 5:00 p.m., October 3, 2002. Written comments shall be sent to Chief, Planning Section, Air Pollution Control Program, 205 Jefferson Street, PO Box 176, Jefferson City, MO 65102-0176.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 5—Conduct of Gaming**

PROPOSED AMENDMENT

11 CSR 45-5.183 Cards—Specifications. The commission is amending subsection (1)(J).

PURPOSE: This amendment reduces from six to two the number of visually distinguishable card backings required for cards used in the game of poker.

(1) Unless otherwise approved by the commission, all cards used for gambling games must meet the following specifications:

(J) Each Class A licensee which elects to offer the game of poker shall be required to have and use on a daily basis at least [six (6)] **two (2)** visually distinguishable card backings for the cards to be used at the game of poker. These card backings may be distinguished, without limitation, by different logos, different colors or different design patterns.

AUTHORITY: sections 313.004, 313.805, 313.830], RSMo 1994] and 313.845, RSMo [Supp. 1999] 2000. Original rule filed Dec. 17, 1996, effective Aug. 30, 1997. Amended: Filed July 3, 2000, effective Feb. 28, 2001. Amended: Filed May 29, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Gaming Commission, PO Box 1847, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for 10:00 a.m., August 8, 2002, at the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, MO 65109.

**Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 30—Bingo**

PROPOSED RULE

11 CSR 45-30.570 Price Reporting

PURPOSE: This rule establishes price-reporting requirements for manufacturers and suppliers of bingo paper and pull-tabs to facilitate compliance with section 313.025(2), RSMo.

(1) Licensed manufacturers shall submit a list of all bingo paper and bingo pull-tab products intended to be marketed, sold, or distributed in this state and the price of each to the commission no later than the last calendar day of each March, June, September, and December. New applicants for a manufacturer's license shall submit a price list with their license application.

(2) Price lists shall include the prices charged to licensed suppliers including any special offers, discounts, or rebates and any price ranges associated with special offers, discounts, or rebates. Price lists for bingo paper shall clearly reflect the cost per thousand for each type, i.e., collated or straight stock, whether the border is

colored, striped, or plain, etc. Pull-tab price lists shall reflect the cost per ticket charged to licensed suppliers for each type of ticket, i.e., three (3)-window, five (5)-window, etc. Pricing information shall be reported in a format prescribed by the commission.

(3) Manufacturers shall submit proposed price changes in writing so the information is received by the commission at least ten (10) days prior to the effective date of the change.

(4) When any bingo supplies will be sold by a licensed supplier below the price paid for the supplies, the supplier shall submit the following information in writing so the information is received by the commission at least ten (10) days prior to the effective date of the sale: the original purchase price, the sale price to be charged, and the reason for selling the supplies at a loss.

AUTHORITY: section 313.065, RSMo 2000. Original rule filed May 29, 2002.

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

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

NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Department of Public Safety, Missouri Gaming Commission, Bingo Division, PO Box 1847, 3417 Knipp Dr., Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. Private entities who feel there is cost which exceeds five hundred dollars (\$500) associated with this rule, are requested to submit the cost (estimated or actual, if available) with the comments. Public hearing is scheduled for 10:00 a.m., August 8, 2002, in the commission hearing room, 3417 Knipp Dr., Jefferson City, Missouri.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 20—Pharmacy Program**

PROPOSED AMENDMENT

13 CSR 70-20.200 Drug Prior Authorization Process. The division is amending this rule by adding section (8).

PURPOSE: This amendment clarifies the process by which existing drugs included in the Medical Assistance Program may be restricted.

(8) When implementing the provisions of section (3), Missouri-specific data shall include the consideration of use and cost data, pharmacoeconomic information and prudent utilization of state funds, and may include medical and clinical criteria.

AUTHORITY: sections 208.153], RSMo Supp. 1991] and 208.201, RSMo [Supp. 1987] 2000. Original rule filed Feb. 3, 1992, effective Aug. 6, 1992. Emergency amendment filed May 22, 2002, effective June 1, 2002, expires Nov. 27, 2002. Amended: Filed June 3, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of the Director, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication in the Missouri Register. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 20—Pharmacy Program**

PROPOSED RULE

13 CSR 70-20.250 Prior Authorization of New Drug Entities or New Drug Dosage Form

PURPOSE: This rule outlines the process by which new drugs or new drug dosage forms of existing drugs may be subject to prior authorization prior to payment by the Missouri Medical Assistance Program.

(1) New drug entities, and new drug product dosage forms of existing drug entities, that have been approved by the Food and Drug Administration and are available on the market, shall comply with prior authorization requirements imposed by the division, in compliance with federal law.

(2) Prior authorization restrictions shall continue on new drug entities and new drug product dosage forms of existing drugs until reviewed by the division and the division eliminates the restriction or makes a final determination to require restriction. The division shall consider known cost and use data, medical and clinical criteria, and prudent utilization of state funds in the review. Interested parties may present clinical data to the division.

(3) The review referenced in section (2) shall occur within thirty (30) business days after the division receives notice through pricing updates of the availability of the drug entity on the market. Upon completion of the review, the division shall make the drug available for use by all Medicaid recipients or refer the new drug or new drug dosage form to the Medicaid Drug Prior Authorization Committee (MDPAC) with a recommendation for continued prior authorization. Staff recommendations regarding continued prior authorization of a new drug or new drug dosage form shall be made in writing to the MDPAC. A copy shall be available to the public prior to the MDPAC meeting in which the continued prior authorization is to be discussed.

(4) The MDPAC shall consider any recommendations related to continued prior authorization of a new drug or new drug dosage form at the next scheduled MDPAC meeting. The division and the MDPAC may actively seek comments about the proposed restrictions. The MDPAC shall include a minimum of fifteen (15) minutes for interested parties to comment about such proposed restrictions.

(5) If the MDPAC finds that use and cost data, pharmacoeconomic information, along with medical and clinical implications of restriction, are documented and restriction is warranted, the MDPAC shall hold a public hearing regarding the continued restriction and make a recommendation to the division. Such recommendation shall be provided to the division, in writing, prior to

the division making a final determination. The division shall provide notice of the final determination through the Department of Social Services, Division of Medical Services website at www.dss.state.mo.us/dms, provider bulletins, and updates to the provider manual.

(6) If, after the hearing referenced in section (5) above, prior authorization of the new drug or new drug dosage form is required, the prior authorization requirement shall be reviewed at least once every twelve (12) months by the MDPAC.

AUTHORITY: sections 208.153 and 208.201, RSMo 2000. Emergency rule filed May 22, 2002, effective June 1, 2002, expires Nov. 27, 2002. Original rule filed June 3, 2002.

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

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

NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed rule with the Office of the Director, Division of Medical Services, 615 Howerton Court, Jefferson City, MO 65109. To be considered, comments must be received within thirty (30) days after publication in the Missouri Register. If to be hand-delivered, comments must be brought to the Division of Medical Services at 615 Howerton Court, Jefferson City, Missouri. No public hearing is scheduled.