
Rules of Elected Officials

Division 30—Secretary of State

Chapter 55—Hearings

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Title 15—ELECTED OFFICIALS
Division 30—Secretary of State
Chapter 55—Hearings

15 CSR 30-55.010 Who May Request

PURPOSE: This rule sets out who may request hearings upon matters under the Missouri Uniform Securities Act.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) Proceedings involving the revocation or suspension of the registration of broker-dealers, agents or investment advisers shall be referred to the Administrative Hearing Commission in accordance with section 409.204(f) of the Missouri Uniform Securities Act (the Act).

(2) Proceedings arising from the summary postponement or suspension of the registration of broker-dealers, agents or investment advisers, except those filed with the Administrative Hearing Commission, and proceedings arising from the denial, suspension or revocation of the registration of securities, or the denial or revocation of exemptions from registration, as well as orders issued pursuant to section 409.408, RSMo, shall be heard by the commissioner, the hearing being governed by sections 536.010, 536.060, 536.063—536.120, RSMo (section 409.412(a) of the Act).

(3) Proceedings arising from the denial, revocation, suspension, summary postponement or summary suspension of the registration of commodity broker-dealers or sales representatives under the Missouri Model Commodities Code, sections 409.800—409.863, RSMo shall be heard by the commissioner, the hearing being governed by sections 409.843, 536.010, 536.060 and 536.063—536.120, RSMo.

*Auth: sections 409.413 and 409.836, RSMo (1986). *Original rule filed June 25, 1968, effective Aug. 1, 1968. Amended: Filed May 21, 1969, effective Aug. 1, 1969. Amended: Filed July 21, 1972, effective Aug. 1, 1972. Amended: Filed Nov. 15, 1974, effective Nov. 25, 1974. Amended: Filed Aug. 11, 1978, effective Feb. 11, 1979. Amended: Filed Aug. 22, 1986, effective Jan. 30, 1987. Amended: Filed July 3, 1989, effective Sept. 28, 1989.*

**Original authority: 409.413, RSMo (1967) and 409.836, RSMo (1985).*

15 CSR 30-55.020 Instituting Hearing Before Commissioner

PURPOSE: This rule describes the form and content of the request or order for hearing, time for filing, number of copies to be filed and how notice will be served.

(1) Filing. A request for hearing shall be filed with the commissioner by any party or interested person aggrieved by an order or refusal to make an order under this chapter. The commissioner may order a hearing on any matter within his/her jurisdiction under Chapter 409, RSMo. The contents of the order shall be the same as that required to be filed in a request for hearing.

(2) Time for Filing. Any person entitled to request a hearing in any matter within the jurisdiction of the commissioner must do so within the statutory time limits, if any, applicable in those cases. If there is no time limit, filing should be within a reasonable period of time not to exceed thirty (30) days from the date of receipt of any notice of action or refusal to take action by the commissioner.

(3) Form of Filing. Any request or order for hearing or related writing filed, other than a notice of appeal, shall contain:

- (A) A brief statement of the facts;
- (B) A summary of issues involved, including:
 - 1. What relief is sought; and
 - 2. Why relief should be granted, including relevant statutes;
- (C) The name of party filing; and
- (D) The name of attorney representing party, if any.

(4) Number of Copies to be Filed. Three (3) copies of a request for hearing or other related material shall be filed with the commissioner. One (1) copy shall be filed for each party named in the request.

(5) Notice of Filing. All parties and, in the discretion of the commissioner, other interested persons shall be notified promptly by the commissioner upon the filing of a request for hearing or related material filed. Contents of the notice will contain the information specified in 15 CSR 30-55.030(2)(A)—(F). Notice pursuant to this provision may be consolidated with the notice for hearing required by 15 CSR 30-55.030 if the hearing is set within five (5) days of the filing of the request for hearing.

*Auth: sections 409.413 and 409.836, RSMo (1986). *Original rule filed Aug. 11, 1978, effective Feb. 11, 1979. Amended: Filed Aug. 22, 1986, effective Jan. 30, 1987.*

**Original authority: 409.413, RSMo (1967) and 409.836, RSMo (1985).*

15 CSR 30-55.030 Answers and Supplementary Pleadings

PURPOSE: This rule describes the form and content of the answer and supplementary pleadings and how they shall be filed.

(1) Answers.

(A) A respondent has the right to file an answer in response to any complaint or order served upon him/her. All answers shall be in writing and should admit those portions of the complaint which respondent believes are true and deny those portions of the complaint which respondent believes are not true. The answer shall contain a short and concise statement of those facts which the respondent believes are true and relevant to the issues raised in the complaint. The answer must be signed by the respondent, its, his/her, authorized agent or legal counsel and shall be filed with the commission at its office in Jefferson City. A copy of the answer shall be mailed by respondent to all parties.

(B) In those cases where an applicant has filed a complaint and the division files an answer, the answer shall set forth in brief form the specific grounds upon which it acted. Unless the answer specifically pleads that petitioner has failed to comply with 15 CSR 30-55.020, those requirements will be deemed as admitted or waived by respondent. Absent a showing that the agency has complied with the law and these rules, no complaint of an applicant shall be dismissed without a hearing on the merits.

(C) All answers shall be filed within ten (10) days after respondent receives a copy of the complaint. However, the failure to file an answer within the time provided in this rule will not prevent the commission from holding a prehearing conference or a hearing at the time and place specified in the notice, nor will this failure divest the commission of its jurisdiction to render a decision in the case.

(2) Amendments and Supplementary Pleadings.

(A) Complaints may be modified or amended without leave of the commission at any time preceding the filing of an answer by the respondent. After respondent has filed his/her answer, leave must be granted to amend or modify any complaint.

(B) Answers may be modified or amended without leave of the commission at any time up to five (5) days preceding the date on which the hearing in the case is actually held. After this time, all modifications or amendments to answers may be made only upon leave being granted by the commission.

(C) Any pleading, other than a complaint or an answer, may be filed in any case pending before the commission if leave is first granted.

*Auth: section 409.413, RSMo (1986).**
Original rule filed Aug. 11, 1978, effective Feb. 11, 1979.

**Original authority 1967.*

15 CSR 30-55.040 Notice of Hearing

PURPOSE: This rule sets out when notice of hearing will be given, the content of notice, time limits of the hearing notice and date and when continuances will be granted.

(1) Immediately upon setting a hearing, the division will mail a notice of hearing to—

(A) All parties named. If a party cannot be reached at the last known address, notice shall be given by publication pursuant to Missouri Rule of Civil Procedure 54.17;

(B) Any other person the commissioner determines should have notice of the hearing; and

(C) If there is a large group whose rights would be affected by the proceeding, notice will be given to a sufficient number of class members as the commissioner determines will give adequate notice to the class.

(2) Notice of hearing shall contain:

- (A) Caption and number of the case;
- (B) Copies of all documents filed;
- (C) Date filed;
- (D) Name of party filing;
- (E) When answers, if required, must be filed;
- (F) Citation to rules promulgated by the commissioner regarding hearings; and
- (G) Time, place and date of hearing.

(3) Time Limits. Notice shall be given immediately upon the setting of the hearing. The hearing must be set within fifteen (15) days of filing a request for hearing. Any hearing

scheduled under the provisions of these rules shall be held not more than ninety (90) days from the date of request, subject to more restrictive statutory limitations.

(4) Continuance. The commissioner shall grant formal requests for continuances upon good cause shown.

*Auth: section 409.413, RSMo (1986).**
Original rule filed Aug. 11, 1978, effective Feb. 11, 1979.

**Original authority 1967.*

15 CSR 30-55.050 Prehearing Conferences

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

(1) Prehearing Conferences—Setting.

(A) All prehearing conferences will be held as ordered by the division with reasonable notice of the time of hearing being given to the parties involved.

(B) Any party, or legal counsel, may petition the commission to hold a prehearing conference at a time prior to the setting of a conference by order of the commission.

(C) The legal counsel who will actually handle the hearing shall be present at all prehearing conferences, unless excused by the commission. Parties to an action may appear in person with counsel at a prehearing conference.

(2) Prehearing Conference—Subject Matter.

(A) Legal counsel for all parties shall attend the prehearing conference and be prepared to discuss the following items:

1. The simplification of the issues;
2. The necessity or desirability of amendments to the pleadings;
3. The possibility of obtaining admission of fact and of documents which will avoid unnecessary proof;
4. The limitation of the number of expert and character witnesses;
5. Whatever prehearing motions have been filed in the case;
6. The manner and conditions upon which depositions can be taken;
7. The anticipated length of the hearing and the time and location of conducting the hearing; and
8. Other matters as may aid in the disposition of the action.

*Auth: section 409.413, RSMo (1986).**
Original rule filed Aug. 11, 1978, effective Feb. 11, 1979.

**Original authority 1967.*

15 CSR 30-55.060 Public Hearing

PURPOSE: This rule states that all hearings will be public and that the parties may attend and be represented by counsel.

All hearings shall be open to the public. All parties have a right to be present and to be represented by counsel, if they so desire. Notice of the hearing will be posted prominently in the Office of the Secretary of State, Securities Division, Missouri State Information Center, Room 229, 600 W. Main, Jefferson City, MO 65101.

*Auth: section 409.413, RSMo (1986).**
Original rule filed Aug. 11, 1978, effective Feb. 11, 1979. Emergency amendment filed Oct. 29, 1982, effective Nov. 8, 1982, expired March 8, 1983. Amended: Filed Oct. 29, 1982, effective Feb. 11, 1983.

**Original authority 1967.*

15 CSR 30-55.070 Record of Hearing

PURPOSE: This rule states what may be included in the record of the hearing.

(1) Upon the request and at the expense of a party to the proceeding, the division will cause the hearing to be recorded and transcribed. Any other party may obtain a copy of the transcript upon payment of the costs of preparation.

(2) If the hearing is not transcribed, the record will contain:

- (A) All materials filed in connection with the hearing;
- (B) All documents and exhibits submitted as evidence;
- (C) All matters officially noticed;
- (D) Formal questions and offers of proof, objections and rulings; and
- (E) The written decision of the commissioner including Findings of Fact and Conclusions of Law.



*Auth: section 409.413, RSMo (1986).**
Original rule filed Aug. 11, 1978, effective
Feb. 11, 1979.

**Original authority 1967.*

15 CSR 30-55.080 Discovery

PURPOSE: This rule tells the manner in which depositions and interrogatories may be taken.

Any party may take and use depositions, written interrogatories, or both, in the same manner, upon and under the same conditions, as in civil actions in the circuit court pursuant to Missouri Rules of Civil Procedure, Rule 57 (section 536.073, RSMo).

*Auth: section 409.413, RSMo (1986).**
Original rule filed Aug. 11, 1978, effective
Feb. 11, 1979.

**Original authority 1967.*

15 CSR 30-55.090 Procedure and Evidence

PURPOSE: This rule states the procedures and rules of evidence to be followed at the hearing.

(1) The order in which the evidence will be presented is as follows:

(A) The staff of the Securities Division shall present its evidence first. The burden of proof on any issue raised in connection with any order or refusal to issue an order by the commissioner shall be on the staff of the Securities Division. All witnesses may be cross-examined on any relevant issue even though that matter was not the subject of direct examination and may be impeached regardless of which party first called him/her to testify;

(B) The opposing party shall then present his/her evidence in the same manner;

(C) Each party has the right to rebut the evidence presented; and

(D) Closing statements may be made by each party in the order evidence was presented.

(2) The commissioner shall have the authority to administer oaths and affirmations, to rule on the admission or inclusion of evidence, and to take the necessary steps to insure a fair and orderly conduct of the hearing. S/he shall follow section 536.070, RSMo governing admission of evidence in administrative hearings.

(A) Records and documents of the division to be considered in the case shall be offered in evidence so as to become part of the record, but shall be considered part of the record by reference to the records and documents when so offered.

(B) The commissioner shall take official notice of all matters of which courts take judicial notice. Technical facts, not judicially cognizable may be officially noted if they are within his/her competence provided that the parties are notified and are given a chance to contest these facts or show that official notice would not be proper.

*Auth: section 409.413, RSMo (1986).**
Original rule filed Aug. 11, 1978, effective
Feb. 11, 1979.

**Original authority 1967.*

15 CSR 30-55.100 Subpoenas

PURPOSE: This rule sets out the manner in which subpoenas may be obtained.

(1) The commissioner shall have the authority to issue subpoenas and subpoenas *duces tecum*.

(A) Subpoenas other than subpoenas *duces tecum* shall be issued upon the request of any party, provided the requesting party provide the following information:

1. Caption and number of the case;
2. Name of witness being subpoenaed; and
3. Date for appearance.

(B) Subpoenas *duces tecum* shall be issued by the commissioner when s/he determines the circumstances are proper.

(2) Subpoenas shall extend to all parts of the state and be served and returned as in civil actions in the circuit court.

(3) Witnesses shall be entitled to the same fees and travel and attendance fees if compelled to travel more than forty (40) miles from home, as provided for civil actions in the circuit court.

(4) Fees for service and witness and travel fees are to be paid by the party requesting the subpoena.

(5) The commissioner shall apply to the circuit court for enforcement of subpoenas pursuant to 536.077, RSMo, except those issued under the provisions of section 409.820, RSMo. Subpoenas issued under the provisions of section 409.820, RSMo are governed by these provisions.

*Auth: section 409.413 and 409.820, RSMo (1986).** *Original rule filed Aug. 11, 1978, effective Feb. 11, 1979. Amended: Filed Aug. 22, 1986, effective Jan. 30, 1987.*

**Original authority: 409.413, RSMo (1967) and 409.820, RSMo (1985).*

15 CSR 30-55.110 Briefs

PURPOSE: This rule states when briefs may be filed and answered.

Each party shall be entitled to present briefs, accompanied by oral argument if the parties so choose, to the commissioner at or after the hearing, as the commissioner directs. The party requesting to present briefs shall have twenty (20) days after formal request is made to prepare and file its brief. The other parties will be given twenty (20) days to file answer briefs. All briefs filed shall also be mailed by the filing party to all other parties. Three (3) copies of briefs must be filed with the commissioner of securities.

*Auth: section 409.413, RSMo (1986).**
Original rule filed Aug. 11, 1978, effective
Feb. 11, 1979.

**Original authority 1967.*

15 CSR 30-55.120 Instituting Hearing Before Commissioner Under the Missouri Commodities Act

Emergency rule filed Oct. 2, 1985, effective
Oct. 12, 1985, expired Feb. 9, 1986.

15 CSR 30-55.130 Answers and Supplementary Pleadings for Commodities Act

Emergency rule filed Oct. 2, 1985, effective
Oct. 12, 1985, expired Feb. 9, 1986.

15 CSR 30-55.140 Notice of Hearing for Missouri Commodities Act

Emergency rule filed Oct. 2, 1985, effective
Oct. 12, 1985, expired Feb. 9, 1986.

15 CSR 30-55.150 Prehearing Conferences for Missouri Commodities Act

Emergency rule filed Oct. 2, 1985, effective
Oct. 12, 1985, expired Feb. 9, 1986.

15 CSR 30-55.160 Public Hearing Under Missouri Commodities Act

Emergency rule filed Oct. 2, 1985, effective Oct. 12, 1985, expired Feb. 9, 1986.

(3) When the adjudicatory proceeding has been completed, the hearing officer shall recommend Findings of Fact and Conclusions of Law to the commissioner. The commissioner shall dispose of the matter in the manner applicable to proceedings conducted by the commissioner. No hearing on the recommendations of the hearing officer must be provided.

15 CSR 30-55.170 Record of Hearing Under Missouri Commodities Act

Emergency rule filed Oct. 2, 1985, effective Oct. 12, 1985, expired Feb. 9, 1986.

*Auth: section 409.413, RSMo (1986). * Original rule filed Aug. 3, 1992, effective April 8, 1993.*

**Original authority 1967.*

15 CSR 30-55.180 Discovery Under Missouri Commodities Act

Emergency rule filed Oct. 2, 1985, effective Oct. 12, 1985, expired Feb. 9, 1986.

15 CSR 30-55.190 Procedure and Evidence Under Missouri Commodities Act

Emergency rule filed Oct. 2, 1985, effective Oct. 12, 1985, expired Feb. 9, 1986.

15 CSR 30-55.200 Subpoenas Under Missouri Commodities Act

Emergency rule filed Oct. 2, 1985, effective Oct. 12, 1985, expired Feb. 9, 1986.

15 CSR 30-55.210 Briefs Under Missouri Commodities Act

Emergency rule filed Oct. 2, 1985, effective Oct. 12, 1985, expired Feb. 9, 1986.

15 CSR 30-55.220 Hearing Officers

PURPOSE: This rule provides for the appointment of hearing officers by the secretary of state.

(1) In all proceedings initiated under a provision of the Missouri Uniform Securities Act which require that the commissioner make a final decision the secretary of state or his/her designee may appoint a hearing officer to conduct the proceeding.

(2) Upon the written request of a party, the commissioner may modify any interim ruling of the hearing officer, but no hearing on the request must be provided.