



Rules of
Department of Insurance,
Financial Institutions and
Professional Registration
Division 800—Administrative Procedures under
the Insurance Laws
Chapter 1—Enforcement and Other Contested
Case Hearings

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**Title 20—DEPARTMENT OF
INSURANCE, FINANCIAL
INSTITUTIONS AND
PROFESSIONAL REGISTRATION**
**Division 800—Administrative Procedures
under the Insurance Laws**
**Chapter 1—Enforcement and Other
Contested Case Hearings**

20 CSR 800-1.010 Scope and Definitions

PURPOSE: This rule sets out the scope of the rules in this chapter and provides definitions to aid in the interpretation of the rules in this chapter.

(1) Applicability of Rules. The rules in this chapter apply to all hearings conducted pursuant to the enforcement procedures in sections 374.046 through 384.049, RSMo and other contested cases arising from provisions in Chapters 354 and 374 through 385, RSMo, unless the rules conflict with specific statutory hearing requirements, in which case the statutory requirements shall prevail. The rules shall be read together with Chapter 536, RSMo.

(2) Definitions.

(A) “Certificate of Authority,” the whole or part of any certificate of approval or charter granted by the director for any insurance company, insurer, association, health services corporation, health maintenance organization, or other legal entity insuring risk.

(B) “Director,” the director of the department.

(C) “Department,” the Department of Insurance, Financial Institutions and Professional Registration.

(D) “License,” the whole or part of any permit, registration, membership, statutory exemption or any other form of permission granted by the director to any person.

(E) “Party,” any individual, partnership, corporation, association, public or private organization of any character or any other governmental agency properly requesting a hearing, named as a respondent, seeking to be heard or entitled to intervene in any matter under the rules in this chapter.

(F) “Respondent,” a party in an administrative proceeding before the director and against whom administrative relief is sought under section 374.046 or 374.047, RSMo or other provisions in Chapters 354 or 374 through 385, RSMo.

AUTHORITY: sections 354.120 and 374.045, RSMo 2000 and sections 374.705, 376.1528,

and 385.218, RSMo Supp. 2007. Original rule filed Sept. 5, 2007, effective May 30, 2008.*

**Original authority: 354.120, RSMo 1973, amended 1983, 1993, 1995; 374.045, RSMo 1967, amended 1993, 1995; 374.705, RSMo 1983, amended 1993, 2004; 376.1528, RSMo 2007; and 385.218, RSMo 2007.*

20 CSR 800-1.020 Who May Request

PURPOSE: This rule sets out who may request enforcement in matters under sections 374.046 through 374.049, RSMo and other contested case provisions in Chapters 354 and 374 through 385, RSMo.

(1) Proceedings Before the Director.

(A) General Provisions. All administrative hearings shall be set with the director’s issuance of a written notice of hearing, which shall be served upon all known parties to the hearing and which shall clearly give notice of the particular acts complained of, the statutes or rules upon which the allegations in the notice are based, the caption of the case, the time and place for hearing and those matters required by section 536.067(2), RSMo. The notice may be accomplished by attaching a petition or statement of charges. In all administrative enforcement under section 374.046 or 374.047, RSMo, the Consumer Affairs Division may initiate the matter by submitting to the director a petition for administrative relief containing a statement of reasons supporting the administrative action including all pertinent allegations of fact and suggestions of law. The director may act summarily, if authorized by law, or may give notice of the intent to order administrative relief with the issuance of an order to show cause. The director may also then issue a hearing order setting the matter for hearing. Any hearing shall be governed by section 374.046 or 374.047 and Chapter 536, RSMo.

(B) Refusal of License for Insurance Producers, Bail Bond Agents or Surety Recovery Agents. In all administrative actions for bail bond agent applications under sections 374.750 and 374.755, RSMo, surety recovery agents under sections 374.786 and 374.787, RSMo, or insurance producers under section 375.141, RSMo, the Consumer Affairs Division may initiate an action for a refusal of an initial or renewal application by submitting to the director a petition for refusal containing supporting allegations and suggestions of law. The director may issue an order to show cause and schedule a hear-

ing or may refuse the license summarily. Any hearing granted by the director shall be governed by Chapter 536, RSMo. Any person aggrieved by a refusal of an initial or renewal application may request a hearing before the Administrative Hearing Commission as provided by law.

(C) Revocations or Suspensions of License for Insurance Producers, Bail Bond Agents or Surety Recovery Agents. In all administrative actions for discipline or disqualification of a bail bond agent under section 374.787, RSMo, a surety recovery agent under section 374.787, RSMo, or an insurance producer under section 375.141, RSMo, the Consumer Affairs Division may submit an *ex parte* request to the director for the filing of a complaint with the Administrative Hearing Commission. No order of revocation or suspension under sections 374.755, 374.787 and 375.141, RSMo, may be issued by the director unless the matter has been referred to the Administrative Hearing Commission or has been resolved by settlement under section 621.045, RSMo. Once the Administrative Hearing Commission has issued its findings of fact and conclusions of law supporting cause for discipline, the director shall convene a hearing to consider appropriate disciplinary action, and shall enter a final order.

(2) Proceedings Before the Administrative Hearing Commission.

(A) Refusal of License for Insurance Producers, Bail Bond Agents or Surety Recovery Agents. Any person aggrieved by refusal of an initial or renewal application for a bail bond agent license, a surety recovery agent license or an insurance producer license by the director may file a petition with the Administrative Hearing Commission in accordance with section 374.051, RSMo, and section 374.750, 374.786 or 375.141, RSMo.

(B) Revocations or Suspensions of License for Insurance Producers, Bail Bond Agents or Surety Recovery Agents. In matters involving the revocation or suspension of the license of insurance producers, bail bond agents or surety recovery agents, the Consumer Affairs Division shall initiate the matter by submitting to the director, a proposed complaint for filing before the Administrative Hearing Commission in accordance with section 374.051, RSMo and section 374.755, 374.787 or 375.141, RSMo. Attorneys for the director may petition the Administrative Hearing Commission for findings of fact and conclusions of law to support discipline or disqualification. The Administrative Hearing



Commission shall, after opportunity for hearing, issue findings of fact and conclusions of law and refer the matter back to the director under section 374.051, RSMo.

AUTHORITY: sections 354.120 and 374.045, RSMo 2000 and sections 374.705, 376.1528, and 385.218, RSMo Supp. 2007. Original rule filed Sept. 5, 2007, effective May 30, 2008.*

**Original authority: 354.120, RSMo 1973, amended 1983, 1993, 1995; 374.045, RSMo 1967, amended 1993, 1995; 374.705, RSMo 1983, amended 1993, 2004; 376.1528, RSMo 2007; and 385.218, RSMo 2007.*

20 CSR 800-1.030 Initiating Hearing Before the Director

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

(1) Request for Hearing. A request for hearing shall be filed with the director by any party or interested person aggrieved by any order or refusal to make an order under Chapters 354 and 374 through 385, RSMo. Any request for hearing shall contain:

- (A) The name of the party requesting the hearing;
- (B) A brief statement of the facts;
- (C) A summary of factual and legal issues involved;
- (D) A request for relief; and
- (E) The name of the attorney representing the party, if any.

(2) Time for Filing. Any person entitled to request a hearing in any matter within the jurisdiction of the director under Chapters 354 and 374 through 385, RSMo must do so within the statutory time limits, if any, applicable in those cases. If there is no time limit, filing must 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 director.

(3) Number of Copies to Be Filed. Three (3) copies of a request for hearing or other related material shall be filed with the director. One (1) copy shall be served by mail on any other party to the matter.

(4) Hearing Order. The director may order a hearing on any matter within the director's jurisdiction under Chapters 354 and 374 through 385, RSMo, or as otherwise provided

by law. The director may immediately set the matter for hearing, and may also schedule a prehearing conference. Within fifteen (15) days of receiving a request for hearing, the director shall set the matter for hearing. Subject to more restrictive statutory limitations, a proceeding under the provisions of these rules shall be set for a date not more than ninety (90) days from the date of the request. The hearing order shall contain:

- (A) Caption and number of the case;
- (B) Name of party filing;
- (C) Time, place and date of prehearing conference;
- (D) Time, place and date of the hearing;
- (E) If a petition or statement of charges was submitted by the Consumer Affairs Division or any other division in the department and the request for hearing has denied assertions of the division or raised an affirmative defense, the date an answer must be filed; and
- (F) Citation to rules promulgated by the director regarding hearings.

(5) Notice to Parties. All parties, and at the director's discretion, other interested parties shall be notified promptly by the director upon the filing of a request for hearing or related material. The director shall provide notice by serving copies of all documents filed including the request for hearing and the hearing order.

AUTHORITY: sections 354.120 and 374.045, RSMo 2000 and sections 374.705, 376.1528, and 385.218, RSMo Supp. 2007. Original rule filed Sept. 5, 2007, effective May 30, 2008.*

**Original authority: 354.120, RSMo 1973, amended 1983, 1993, 1995; 374.045, RSMo 1967, amended 1993, 1995; 374.705, RSMo 1983, amended 1993, 2004; 376.1528, RSMo 2007; and 385.218, RSMo 2007.*

20 CSR 800-1.040 General Procedures

PURPOSE: This rule describes the general procedures for contested matters.

(1) Rules of Procedure. The hearings before the director and the Administrative Hearing Commission are governed by Chapter 536, RSMo. The hearings before the Administrative Hearing Commission pursuant to section 374.051, RSMo are governed by the rules in Chapter 1 CSR 15-3. During the pendency of any matter before the Administrative Hearing Commission, the rules in Chapter 1 CSR 15-3 supersede any rules in this chapter that

conflict. The director may also be guided by the *Missouri Rules of Civil Procedure*.

(2) Place of Filing. If the matter is to be heard by the director, all pleadings, documents and requests permitted or required to be filed with the department in connection with a hearing shall be delivered, mailed, addressed or submitted to or filed with the director at the Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, 301 West High Street, Jefferson City, MO 65102. If the matter is to be heard by the Administrative Hearing Commission, all pleadings must be filed with the commission. The party filing pleadings or documents shall serve by mail copies of all filed pleadings or documents on all parties.

(3) Service of Hearing Order/Notice of Hearing. Service of the notice of hearing shall be effected upon all parties involved promptly upon issuance of the hearing order and notice, but not less than ten (10) days before the date designated for the hearing either by United States mail, postage prepaid, certified or registered, addressed to the parties' last known address or by another means of personal service.

(4) Form of Documents.

(A) Except as otherwise provided, one (1) original and two (2) copies of all documents shall be signed by the party or by his/her authorized representative or attorney and filed with the director.

(B) Documents shall leave sufficient space to enter the file number and the title of the proceeding in connection with which they are filed.

(C) Documents shall be typewritten or reproduced from typewritten copy on eight and one-half by eleven inch (8 1/2" × 11") white paper.

(D) A certified copy may be submitted in lieu of the original.

(5) Computation of Time.

(A) In computing any period of time prescribed or allowed by this regulation or by any applicable statute, the day of the act, event or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day that is neither a Saturday, Sunday nor a legal holiday. When the period of time prescribed or allowed is less than seven (7) days,



intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

(B) Notice requirements shall be construed to mean notice received, but proof that notice was dispatched by means reasonably calculated to be received by the prescribed date shall be prima facie evidence that notice was timely received.

(6) Appearance.

(A) Any person entitled to participate in any proceedings may appear as follows:

1. A natural person may appear on his/her own behalf or by an attorney at law licensed to practice in Missouri or both; and

2. A corporation, association or other entity shall be represented by an attorney licensed to practice in Missouri, except a bona fide officer, employee or representative may appear on behalf of such entities for preliminary matters until such time as an attorney is retained.

(B) Attorneys not licensed to practice in Missouri may appear on motion.

(C) An attorney appearing in a representative capacity shall file a written notice of appearance.

(7) Presiding Officer. The director has the authority to conduct a hearing, take all necessary action to avoid delay, maintain order and insure the development of a clear and complete record. The director possesses all powers necessary to conduct a hearing including, but not limited to, the power to—

(A) Administer oaths and affirmations;

(B) Regulate the course of hearings, set the time and place for continued hearings, fix times for filing of documents, provide for the taking of testimony by deposition if necessary and generally conduct the proceedings according to generally recognized administrative law and this chapter;

(C) Examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony and set reasonable limits on the amount of time each witness may testify;

(D) Rule upon offers of proof and receive relevant evidence;

(E) Sign and issue subpoenas that require attendance giving testimony and the production of books, papers and other documentary evidence;

(F) Direct parties to appear and confer for the settlement or simplification of issues and to otherwise conduct prehearing conferences;

(G) Dispose of procedural requests or similar matters;

(H) Order the filing of written direct testimony by all parties to a hearing. Written direct testimony, if ordered to be filed, shall be on eight and one-half inch by eleven inch (8 1/2" × 11") paper, in question and answer form and the truth sworn to before a notary public. Written direct testimony, if ordered to be filed, shall be in lieu of all live direct testimony except redirect or rebuttal testimony or, if good cause is shown to the director. The right to cross-examination of any witness on whose behalf written direct testimony is filed is mandatory;

(I) Render findings of fact, conclusions of law, decisions and orders; and

(J) Enter any order necessary and proper to effectuate any provision of Chapters 354 and 374 through 385, RSMo.

(8) Transcription of Proceedings.

(A) Oral proceedings at which evidence is presented shall be recorded either by a certified court reporter or a mechanical recording device, but need not be transcribed unless requested by a party who shall pay for the transcription of the portion requested, except as otherwise provided by law. Any transcription will be retained through and including the time allotted for appeal, revision, rehearing or other manner of review prior to final disposition as provided for by law.

(B) The transcript and the record offered in connection with the hearing shall constitute the official record. Before the transcript is filed, the director shall notify the parties that the transcript has been produced, receive corrections from any person, examine the transcript for accuracy and then within a reasonable time certify that it is a true and correct transcript of the hearing. Only after the certification may the transcript be made available for public inspection as the director may allow.

(C) The record in an administrative hearing shall include: prehearing records; all pleadings (including all notices and answers, motions, and briefs); evidence received; a statement of matters officially noticed; offers of proof, objections and rulings; all orders entered by the director; and findings, conclusions, opinions, recommendations and final order of the director.

(9) Existing Statutory or Department Procedures and Practices. This regulation shall not be construed to limit or repeal additional requirements imposed by statute or otherwise or to change existing department procedures which are equivalent to or exceed the stan-

dards of administrative procedure prescribed in this regulation.

AUTHORITY: sections 354.120 and 374.045, RSMo 2000 and sections 374.705, 376.1528, and 385.218, RSMo Supp. 2007. Original rule filed Sept. 5, 2007, effective May 30, 2008.*

**Original authority: 354.120, RSMo 1973, amended 1983, 1993, 1995; 374.045, RSMo 1967, amended 1993, 1995; 374.705, RSMo 1983, amended 1993, 2004; 376.1528, RSMo 2007; and 385.218, RSMo 2007.*

20 CSR 800-1.050 Notice of Hearing

PURPOSE: This rule sets out the timing and content of the notice of hearing.

(1) Immediately upon setting a hearing, the director shall serve notice by mail on all parties to the matter. Service of notice shall be made by mailing a copy of the hearing order required by 20 CSR 800-1.030(4) to all parties. If a party cannot be reached at the last known address, notice may be given by publication pursuant to *Missouri Rules of Civil Procedure*, Rule 54.17.

(2) The director may serve notice of the hearing on any person the director determines should have notice of the hearing.

(3) 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 director determines will give adequate notice to the class.

AUTHORITY: sections 354.120 and 374.045, RSMo 2000 and sections 374.705, 376.1528, and 385.218, RSMo Supp. 2007. Original rule filed Sept. 5, 2007, effective May 30, 2008.*

**Original authority: 354.120, RSMo 1973, amended 1983, 1993, 1995; 374.045, RSMo 1967, amended 1993, 1995; 374.705, RSMo 1983, amended 1993, 2004; 376.1528, RSMo 2007; and 385.218, RSMo 2007.*

20 CSR 800-1.060 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) Matters Prosecuted by a Division before the Director. In any proceeding in



which the Consumer Affairs Division, or any other division in the department pursuant to any provision in Chapters 354 and 374 through 385, RSMo, has submitted a petition or statement of charges to the director, or a party challenging the factual basis for an order shall file an answer to the assertions made by the division in its petition. The answer shall be filed within thirty (30) days of receipt of the hearing order, unless the director orders additional time. All answers shall be in writing and should admit those portions of the petition which respondent believes are true and deny those portions of the petition which respondent believes are not true, or for which respondent is without sufficient information to either admit or deny. The answer shall contain a concise statement of those facts, which the respondent believes are true and relevant to the issues raised in the petition. The respondent or legal counsel must sign the answer.

(B) Matters Prosecuted by Others before the Director. In those cases where an applicant has filed a petition and a division within the department has been assigned the duty to file an answer, the answer shall set forth the factual and legal basis for the action of the director. Unless the answer specifically pleads that the petition failed to comply with 20 CSR 800-1.030, objections for failure to comply will be deemed to be waived by the division. Absent a showing that the division has complied with the law and these rules, no complaint of an applicant will be dismissed without a hearing on the merits.

(C) Matters Referred to or Pending in the Administrative Hearing Commission. The hearings before the Administrative Hearing Commission pursuant to section 374.051, RSMo, are governed by the rules in Chapter 1 CSR 15-3.

(2) Rules and Supplementary Pleadings in Matters before the Director.

(A) A petition may be amended without leave of the director at any time preceding the filing of an answer or other responsive pleading by the respondent. After respondent has filed a responsive pleading, leave must be granted to amend or modify any petition.

(B) Answers may be modified or amended without leave of the director 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 rules to answers may be made only upon leave being granted by the director.

(C) Unless otherwise ordered, the filing of an answer shall not stay the proceeding or

extend the time for the performance of any act.

(D) A party may participate in the proceedings without forfeiting any jurisdictional objection, if the objection is raised at or before the time the party files an answer and before the commencement of the hearing.

AUTHORITY: sections 354.120 and 374.045, RSMo 2000 and sections 374.705, 376.1528, and 385.218, RSMo Supp. 2007. Original rule filed Sept. 5, 2007, effective May 30, 2008.*

**Original authority: 354.120, RSMo 1973, amended 1983, 1993, 1995; 374.045, RSMo 1967, amended 1993, 1995; 374.705, RSMo 1983, amended 1993, 2004; 376.1528, RSMo 2007; and 385.218, RSMo 2007.*

20 CSR 800-1.070 Prehearing Conferences

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

(1) Setting.

(A) In proceedings before the director all prehearing conferences shall be held within thirty (30) days of the hearing order issued by the director, unless continued by the director for good cause.

(B) If legal counsel is retained to represent any party, that counsel shall be present at any prehearing conferences, unless excused by the director. Parties to a proceeding may appear in person with counsel at a prehearing conference.

(2) Subject Matter.

(A) All parties or counsel shall appear and be prepared to discuss the following items:

1. The simplification of issues;
2. The necessity or desirability of amending the pleadings for the purpose of clarification, amplification or limitation;
3. The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof;
4. The limitation of the number of witnesses;
5. A discovery schedule, if necessary for the orderly administration of the proceeding;
6. The manner and conditions upon which depositions can be taken;
7. Schedule for disposition of any prehearing motions that have been filed;
8. The propriety of prior mutual exchange between or among the parties of prepared testimony and exhibits;

9. Other matters that may aid in the simplification of the evidence and disposition of the proceeding; and

10. The anticipated length, time and location of the hearing.

(B) Opportunity shall be afforded all parties to be represented by legal counsel and to dispose of the case by stipulation, agreed settlement or consent order, unless otherwise precluded by law. Any stipulation, agreed settlement or consent order reached before a final determination by the director, shall be submitted in writing to the director and shall become effective only if issued or approved by the director.

(C) Only if the director orders or all parties to the matter consent, shall a record of the prehearing conference be kept. It must be certified to by the parties, and then filed in the record being developed by the director.

AUTHORITY: sections 354.120 and 374.045, RSMo 2000 and sections 374.705, 376.1528, and 385.218, RSMo Supp. 2007. Original rule filed Sept. 5, 2007, effective May 30, 2008.*

**Original authority: 354.120, RSMo 1973, amended 1983, 1993, 1995; 374.045, RSMo 1967, amended 1993, 1995; 374.705, RSMo 1983, amended 1993, 2004; 376.1528, RSMo 2007; and 385.218, RSMo 2007.*

20 CSR 800-1.080 Discovery

PURPOSE: This rule outlines procedures for, and permits time limits on, discovery.

(1) Discovery Schedule. The director or the Administrative Hearing Commission may issue orders setting reasonable time limits for completion of discovery and may shorten or lengthen the time parties have to file answers to discovery requests.

(2) Interrogatories. Any party may serve upon any other party written interrogatories, upon and under the same conditions, as in civil actions in the circuit court pursuant to *Missouri Rules of Civil Procedure*, Rule 57, except as limited by section 536.073, RSMo.

(3) Depositions. Any party may take and use depositions 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, except as limited by section 536.073, RSMo.

(4) Requests for Production of Documents. Any party may serve upon any other party a



request for documents and things, upon and under the same conditions, as in civil actions in the circuit court pursuant to *Missouri Rules of Civil Procedure*, Rule 58, except as limited by section 536.073, RSMo.

(5) Admission of Facts and of Genuineness of Documents. Any party may serve upon any other party a written request for the admission of facts or of the genuineness of documents, upon and under the same conditions, as in civil actions in the circuit court pursuant to *Missouri Rules of Civil Procedure*, Rule 59, except as limited by section 536.073, RSMo.

(6) Enforcement of Discovery: Sanctions. The director or the Administrative Hearing Commission may enforce discovery or sanction parties, upon and under the same conditions, as in civil actions in the circuit court pursuant to *Missouri Rules of Civil Procedure*, Rule 61, except as limited by section 536.073, RSMo.

AUTHORITY: sections 354.120 and 374.045, RSMo 2000 and sections 374.705, 376.1528, and 385.218, RSMo Supp. 2007. Original rule filed Sept. 5, 2007, effective May 30, 2008.*

**Original authority: 354.120, RSMo 1973, amended 1983, 1993, 1995; 374.045, RSMo 1967, amended 1993, 1995; 374.705, RSMo 1983, amended 1993, 2004; 376.1528, RSMo 2007; and 385.218, RSMo 2007.*

20 CSR 800-1.090 Subpoenas

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

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

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

1. Caption and number of the case;
2. Name of witness to whom the subpoena is directed;
3. Date and time for appearance; and
4. Place for appearance.

(B) Subpoenas *duces tecum* shall be issued by the director when the director 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 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 circuit court.

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

(5) The director shall apply to the circuit court for enforcement of subpoenas pursuant to sections 374.210.2, and 536.077, RSMo.

(6) Upon motion made no less than two (2) days prior to the day specified in the subpoena for compliance or within a shorter time with leave of the director, the director may quash or modify the subpoena if it is unreasonable or oppressive.

AUTHORITY: sections 354.120 and 374.045, RSMo 2000 and sections 374.705, 376.1528, and 385.218, RSMo Supp. 2007. Original rule filed Sept. 5, 2007, effective May 30, 2008.*

**Original authority: 354.120, RSMo 1973, amended 1983, 1993, 1995; 374.045, RSMo 1967, amended 1993, 1995; 374.705, RSMo 1983, amended 1993, 2004; 376.1528, RSMo 2007; and 385.218, RSMo 2007.*

20 CSR 800-1.100 Administrative Hearing Procedures

PURPOSE: This rule prescribes procedures to be followed where enforcement and other contested case hearings are held before the director.

(1) Prehearing Motions. The director may consider any motions to dismiss, motions to vacate, motions for summary determination, or any other motions prior to commencement of the hearing on the merits.

(2) Presentation of Opening Statements. The division within the department shall make the first opening statement. Other parties may make an opening statement immediately following the division's statement or may do so prior to commencing their presentation of evidence.

(3) Presentation of Evidence. The order in which the evidence will be presented is as follows:

(A) The division within the department shall present its evidence first. The burden of proof in a hearing on the merits in matters

relating to an order of the director, or the failure of the director to act, shall be on the agency. The burden of proof for affirmative defenses shall be upon the party claiming the affirmative defense;

(B) Other parties shall then present their evidence; and

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

(4) Closing Arguments. All parties may make closing arguments. The party with the burden of proof shall have the opportunity for rebuttal argument.

(5) Default. Failure of a party to answer a verified petition, appear on the date set for hearing or failure to proceed as ordered by the director shall constitute a default. The director shall enter those findings, conclusions, opinions, recommendations or orders as are appropriate under the pleadings and evidence as the director shall receive into the record.

(6) Rules of Evidence.

(A) The director shall receive evidence which is admissible under the law of the rules of evidence of Missouri pertaining to civil actions or under the Administrative Procedure Act, Chapter 536, RSMo. In addition, the director may receive materially relevant evidence which would be relied upon by a reasonably prudent person in the conduct of serious affairs if it is reasonably necessary to resolution of the issue for which it is offered; provided that the rules relating to privileged communications and privileged topics shall be observed.

(B) The director shall exclude immaterial, irrelevant and repetitious evidence.

(C) When the admissibility of disputed evidence depends upon an arguable interpretation of substantive law, the director shall admit the evidence.

(D) A party may conduct examinations or cross-examinations without adherence to formal rules of evidence, provided the examination or cross-examination can be shown to be necessary and pertinent to a full and fair disclosure of the subject matters of the hearing.

(E) Official notice may be taken of all facts of which judicial notice may be taken and of other facts, of a technical nature, within the specialized knowledge and experience of the director.

(7) Findings, Conclusions, Opinions and Final Orders.



(A) The director's findings, conclusions, opinions and final orders shall be in writing and shall include findings of fact and conclusions of law or opinions separately stated when possible. Findings of fact shall be based exclusively on the evidence presented at the hearing or known to all parties, including matters officially noticed. Findings of fact, if set forth in statutory language, shall be accompanied by a statement of the underlying supporting facts. If a party submits proposed findings of fact which may control the decision or order, the decision or order shall include a ruling upon each proposed finding. Each conclusion of law shall be supported by authority or reasoned opinion. A decision or order shall not be except upon consideration of the record as a whole or such portion as may be supported by competent and substantial material evidence on the whole record.

(B) A copy of the order immediately shall be delivered personally or mailed, postage prepaid, certified or registered, to each party and to his/her attorney of record.

(C) The director, as part of the final order, may order any other relief authorized by law, including requiring any party to the proceeding to pay part or all of the costs of the hearing, including, but not limited to, witness fees, court reporter fees, director fees and the cost of the transcript.

(D) The director may request that attorneys representing parties submit proposed orders at the close of the hearing.

(8) Rehearings.

(A) Except as otherwise provided by law and for good cause shown, the director may order, in the director's discretion, a rehearing in a contested case on petition of an interested party.

(B) Where the record of testimony made at the hearing is found by the director to be inadequate for purposes of judicial review, the director may order a reopening of the hearing.

(C) A rehearing shall be noticed and conducted in the same manner as an original hearing. The evidence received at the rehearing shall be included in the record for director's reconsideration and for judicial review.

(D) Except as expressly permitted by law, no rehearing may be held in a contested case after order by the director unconditionally disposing of all issues.

AUTHORITY: sections 354.120 and 374.045, RSMo 2000 and sections 374.705, 376.1528, and 385.218, RSMo Supp. 2007. This rule was previously filed as 4 CSR 190-19.010.*

Original rule filed Aug. 5, 1974, effective Aug. 15, 1974. Amended: Filed Jan. 14, 1981, effective July 20, 1981. Amended: Filed March 16, 1988, effective June 27, 1988. Amended: Filed Aug. 30, 1996, effective March 30, 1997. Amended: Filed Sept. 5, 2007, effective May 30, 2008.

**Original authority: 354.120, RSMo 1973, amended 1983, 1993, 1995; 374.045; RSMo 1967, amended 1993, 1995; 374.705, RSMo 1983, amended 1993, 2004; 376.1528, RSMo 2007; and 385.218, RSMo 2007.*

20 CSR 800-1.110 Motions, Suggestions and Legal Briefs

PURPOSE: This rule states when motions, suggestions and legal briefs may be filed and answered.

(1) Motions and Suggestions. Each party shall be entitled to file motions and to present written suggestions, accompanied by oral argument if the party so chooses. Motions and supporting affidavits or legal suggestions may be filed at any time during the pendency of the proceeding. Opposing parties shall file any responsive pleading within five (5) business days, unless the director grants additional time.

(2) Briefs. At any time prior to submitting the cases for consideration at the close of the hearing, a party may seek leave to file a brief. If leave is granted, a party shall have twenty (20) days after leave is granted to prepare and file its brief. The other parties will be given twenty (20) days to file responsive briefs. An original of the briefs must be filed with the director. The filing party shall also mail all briefs filed to all other parties.

(3) Decision on the Pleadings. The director shall rule upon all motions, except that the director shall not dismiss or decide a matter on the merits without granting all parties to the proceeding the opportunity to a hearing and to establish a record.

AUTHORITY: sections 354.120 and 374.045, RSMo 2000 and sections 374.705, 376.1528, and 385.218, RSMo Supp. 2007. Original rule filed Sept. 5, 2007, effective May 30, 2008.*

**Original authority: 354.120, RSMo 1973, amended 1983, 1993, 1995; 374.045, RSMo 1967, amended 1993, 1995; 374.705, RSMo 1983, amended 1993, 2004; 376.1528, RSMo 2007; and 385.218, RSMo 2007.*

20 CSR 800-1.120 Intervention, Joinder, Consolidation and Severance

PURPOSE: This rule describes the procedure for intervention by or joinder of other parties, and the consolidation or severance of matters.

(1) Intervention.

(A) Upon timely written application, the director shall permit any party to intervene in a proceeding, subject to the necessity for conducting an orderly and expeditious hearing, when either of the following conditions is met:

1. When the party is so situated that the party will be adversely affected by a final order arising from the hearing; or

2. When a party's circumstances and the hearing proceeding have a question of law or fact in common.

(B) Two (2) copies of a petition for intervention shall be filed with the director and one (1) copy served on each additional party no later than forty-eight (48) hours prior to the date set for hearing of the matters set forth in the notice of hearing. The director may permit later intervention when there is good cause for the delay.

(C) An intervenor shall have all the rights of an original party, except that the director, in the order allowing intervention, may provide that the applicant shall be bound by orders entered or by evidence received, that the applicant shall not raise issues which might more properly have been raised at an earlier stage of the proceeding, that the applicant shall not raise new issues or add new parties or that in other respects the applicant shall not interfere with the control of the hearing, as justice and the avoidance of undue delay may require.

(2) Joinder of Additional Parties. Upon motion by any party, the director may join another person if doing so will facilitate the convenient, expeditious and complete determination of matters already raised in the proceeding.

(3) Consolidation and Severance of Matters. In the interest of convenient, expeditious and complete determination of matters, the director may consolidate or sever proceedings involving any number of parties.

AUTHORITY: sections 354.120 and 374.045, RSMo 2000 and sections 374.705, 376.1528, and 385.218, RSMo Supp. 2007. Original



rule filed Sept. 5, 2007, effective May 30, 2008.

**Original authority: 354.120, RSMo 1973, amended 1983, 1993, 1995; 374.045, RSMo 1967, amended 1993, 1995; 374.705, RSMo 1983, amended 1993, 2004; 376.1528, RSMo 2007; and 385.218, RSMo 2007.*

20 CSR 800-1.130 Hearing Officers

PURPOSE: *This rule provides for the appointment of hearing officers by the director.*

(1) In all proceedings before the director initiated under the provisions of Chapters 354 and 374 through 385, RSMo, the director pursuant to section 374.120.2, RSMo, may appoint a hearing officer to conduct the hearing.

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

(3) When the hearing has been completed, the hearing officer shall recommend findings of fact, conclusions of law and a final order to the director. The director shall dispose of the matter in the manner applicable to proceedings conducted by the director. No hearing on the recommendations of the hearing officer must be provided.

AUTHORITY: *sections 354.120 and 374.045, RSMo 2000 and sections 374.705, 376.1528, and 385.218, RSMo Supp. 2007.* Original rule filed Sept. 5, 2007, effective May 30, 2008.*

**Original authority: 354.120, RSMo 1973, amended 1983, 1993, 1995; 374.045, RSMo 1967, amended 1993, 1995; 374.705, RSMo 1983, amended 1993, 2004; 376.1528, RSMo 2007; and 385.218, RSMo 2007.*

20 CSR 800-1.140 Public Hearing

PURPOSE: *This rule clarifies that all hearings will be public, the parties may attend and notice will be made at the offices of the department director.*

(1) All hearings before the director shall be open to the public. All parties have a right to be present.

(2) Notice of the hearing will be posted prominently at the front door of the offices of

the department director, Room 530, 301 W. High Street, Jefferson City, MO 65101.

AUTHORITY: *sections 354.120 and 374.045, RSMo 2000 and sections 374.705, 376.1528, and 385.218, RSMo Supp. 2007.* Original rule filed Sept. 5, 2007, effective May 30, 2008.*

**Original authority: 354.120, RSMo 1973, amended 1983, 1993, 1995; 374.045, RSMo 1967, amended 1993, 1995; 374.705, RSMo 1983, amended 1993, 2004; 376.1528, RSMo 2007; and 385.218, RSMo 2007.*

20 CSR 800-1.200 Workers' Compensation Rate Hearings

(Rescinded March 30, 1997)

AUTHORITY: *sections 287.320 and 374.045, RSMo 1986. This rule was previously filed as 4 CSR 190-19.020. Original rule filed May 4, 1987, effective Aug. 27, 1987. Rescinded: Filed Aug. 30, 1996, effective March 30, 1997.*