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SEP 13 2021

SECRETARY OF STATE
ADMINISTRATIVE RULES

Title 8—DEPARTMENT OF
LABOR AND INDUSTRIAL RELATIONS
Division 60—Missouri Commission on Human Rights
Chapter 2—Procedural Regulations

PROPOSED AMENDMENT

8 CSR 60-2.100 Prehearing Discovery. The commission is amending section (1) and rescinding sections (2), (3), (4), (5), (6), and (7).

PURPOSE: This proposed amendment provides that discovery before the commission may be obtained in the same manner, upon or under the same conditions as discovery in civil actions by rule of the Supreme Court of Missouri, and as further provided by section 536.073, RSMo.

(1) *[General Provisions Governing Discovery. The presiding officer shall follow the procedural rules as set out in these rules as well as the Missouri Rules of Civil Procedure and Chapters 213 and 536, RSMo. Any party may take and use written interrogatories, requests for production of documents and other materials, and requests for admissions and all other forms of discovery authorized by rules of civil procedure in civil actions in the circuit court.] Any party may obtain discovery in the same manner, upon or under the same conditions and upon the same notice and other requirements as is or may be provided for with respect to discovery in civil actions by rule of the Supreme Court of Missouri for use in the circuit court, as provided by section 536.073.*

[(2) Depositions. Any party to a hearing may take and use depositions in the same manner, upon the same notice as is or may be hereafter provided in Chapter 536, RSMo and the Missouri Rules of Civil Procedure. No part of a deposition shall constitute a part of the record in a proceeding, unless received as evidence by the presiding officer. Objection may be made at the hearing in the proceeding to receiving in evidence any deposition or part of the deposition for any reason which would require the exclusion of the evidence if the witnesses were then present and testifying.

(3) Use of Interrogatories.

(A) Interrogatories. Any party may serve upon any other party written interrogatories to be answered by the party or an agent of the party. The party serving the interrogatories also shall file copies of the interrogatories with the presiding officer. No party shall serve on any other party more than thirty-five (35) interrogatories in the aggregate (including subsections) without leave of the presiding officer or the consent of opposing counsel. Any party desiring to serve additional interrogatories shall file a written motion setting forth the proposed additional interrogatories and reasons establishing good cause for the additional interrogatories. Any number of additional interrogatories may be filed and served if the written consent of counsel for the party to which interrogatories are directed is attached to the interrogatories.

(B) Responses and Objections. Responses and objections to interrogatories shall be filed with the presiding officer according to the same provisions as stated in the Missouri Rules of Civil Procedure.

(4) Use of Admissions.

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By JCAR at 3:18 pm, Sep 13, 2021

(A) Request for Admissions. After a case is set for hearing, a party may serve upon any other party a written request for the admission by the truth of the genuineness of any relevant documents described in and exhibited with the request or of the truth of any relevant and material matter of fact set forth in the request. Copies of the documents shall be served with the request unless copies have already been furnished. Each matter of which an admission is requested shall be separately set forth.

(B) Responses and Objections. The matter is admitted unless, within twenty (20) days after service of the request, or within a shorter or longer time as the presiding officer may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter.

(C) Effect of Admissions. Any matter admitted under this rule is conclusively established unless the presiding officer on motion permits withdrawal or amendment of the admission.

(5) Use of Requests to Produce.

(A) Requests to Produce. Any party may serve on any other party a request 1) to produce and permit the party making the request to inspect and copy, any designated documents or to inspect and copy, test or sample any tangible things which constitute or contain matters within the scope of discovery and which are in the possession, custody or control of the party upon whom the request is served; or 2) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying and photographing, testing or sampling the property or any designated object or operation on the property within the scope of discovery. The request shall set forth the items to be inspected either by individual item or by category and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place and manner of making the inspection and performing the related acts.

(B) Response or Objection to Requests to Produce. The party upon whom the request is served shall serve a written response within twenty (20) days after the service of the request except as the presiding officer may allow. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified.

(6) Discovery subpoenas and subpoenas duces tecum shall be issued in the same manner and under the conditions as stated in 8 CSR 60-2.110.

(7) The panel or hearing examiner shall have the authority to impose sanctions in the same manner as set forth in the rules of civil procedure, except that they shall not have the authority to issue an order treating as a contempt of court the failure to obey.]

AUTHORITY: section[s] 213.030, **RSMo 2016**, and **section 213.075, RSMo [(Cum. Supp. 1992)] Supp. 2020**. Original rule filed April 15, 1988, effective July 11, 1988. For intervening history, please consult the **Code of State Regulations**. Amended: Filed September 13, 2021.

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 Commission on Human Rights, Attn: Dr. Alisa Warren, Executive Director, PO Box 1129, Jefferson City, MO 65102-1129. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*