

Title 11—DEPARTMENT OF PUBLIC SAFETY
Division 45—Missouri Gaming Commission
Chapter 40—Fantasy Sports Contests

11 CSR 45-40.010 Definitions. The commission is amending sections (3), (4), and (6); removing section (12); adding new sections (8), and (9); and renumbering accordingly.

PURPOSE: This amendment changes and adds definitions for terms used relating to Fantasy Sports Contests (FSCs) to make the definitions consistent with SB 87, 100th General Assembly.

(3) Fantasy sports contest (FSC)—any fantasy or simulated game or contest with an entry fee[, conducted on an internet website or any platform,] in which:

(A) The value of all prizes and awards offered to the winning participants is established and made known in advance of the contest;

(B) All winning outcomes reflect in part the relative knowledge and skill of the participants and are determined predominantly by the accumulated statistical results of the performance of individuals, including athletes in the case of sports events; and

(C) No winnings outcomes are based on the score, point spread, or any performance of any single actual team or combination of teams or solely on any single performance of an individual athlete or player in any single actual event.

(4) Fantasy sports contest operator (FSCO)—any person [or], entity, **or division of a corporate entity** that offers [FSCs for a prize] **a platform for the playing of fantasy contests, administers one or more fantasy contests with an entry fee, and awards a prize of value.**

(6) Key person—an officer, director, trustee, [or] principal salaried executive staff officer, **or any person so designated by the commission or director.**

(8) Location—the geographical position of a person as determined within a degree of accuracy consistent with generally available internet protocol address locators.

(9) Location percentage—for all fantasy sports contests, the percentage, rounded to the nearest one-tenth of one percent, of the total entry fees collected from registered players located in the state of Missouri at the time of entry into a fantasy contest, divided by the total entry fees collected from all players, regardless of the players' locations, of the fantasy sports contests.

[(8)]**(10) Net revenue—for all FSCs, the amount equal to the total entry fees collected from all participants entering such FSCs less winnings paid to participants in the contests, multiplied by the [resident]location percentage.**

[(9)]**(11) Officer—the president, vice-president, treasurer, secretary, and other officer identified in an entity's bylaws or incorporation documents, a member or manager of a limited liability company, a sole proprietor, or a partner.**

[(10)](12) Principal salaried executive staff officers—means the president, any vice president in charge of a principal business unit, division, or function (such as sales, administration, or finance), any other officer who performs a policy making function, or any other person who performs similar policy making functions for the FSCO. Executive officers of subsidiaries may be deemed executive officers of the FSCO if they perform such policy making functions for the FSCO.

[(11)](13) Prize—anything of value including, but not limited to, cash or a cash equivalent, contest credits, merchandise, or admission to another contest in which a prize may be awarded.

[(12) Resident percentage—for all fantasy sports contests, the percentage, rounded to nearest one-tenth of one percent (.1%), of the total entry fees collected from Missouri residents divided by the total entry fees collected from all players, regardless of the players' location, of the fantasy sports contests.]

AUTHORITY: sections 313.950 and 313.955, RSMo 2016. Emergency rule filed Aug. 29, 2016, effective Sept. 8, 2016, expired March 6, 2017. Original rule filed Aug. 29, 2016, effective March 30, 2017. Amended: Filed October 31, 2019.

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 via email to MGCPolicy@mgc.dps.mo.gov, or by mail to the Missouri Gaming Commission, Policy Section, 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 Thursday, January 2, 2020 at 10:00 a.m., in the Missouri Gaming Commission's Hearing Room, 3417 Knipp Drive, Jefferson City, Missouri.*

Title 11—DEPARTMENT OF PUBLIC SAFETY
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11 CSR 45-40.020 Application for Fantasy Sports Contest Operator License. The commission is amending sections (1), (2), and (7); adding a new section (4); and renumbering accordingly.

PURPOSE: This amendment incorporates a form for the renewal of a Fantasy Sports Contest operator's license, incorporates amendments to the Fantasy Sports Contest Operator Application, and modifies the rule to be consistent with SB 87, 100th General Assembly.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here. The Fantasy Sports Contest Operator Application[and], the FSCO Personal Disclosure Form, **and the FSCO Renewal Form** may also be accessed at <http://www.mgc.dps.mo.gov>.

(1) A fantasy sports contest operator (FSCO) license is a license granted by the Missouri Gaming Commission (commission) to allow a person[or], entity, **or division of a corporate entity** to offer fantasy sports contests (FSCs) for play by **persons located in Missouri** [residents] in accordance with the Missouri Fantasy Sports Consumer Protection Act (The Act).

(2) Application for licensure shall be made on the Fantasy Sports Contest Operator Application (application), which the commission adopts and incorporates by reference herein, as published by the Missouri Gaming Commission, 3417 Knipp Dr., PO Box 1847, Jefferson City, MO 65102, and which may be accessed at <http://www.mgc.dps.mo.gov>. The application does not incorporate any subsequent amendments or additions as adopted by the commission on [December 7, 2016] **October 30, 2019**.

(4) Notice of renewal shall be made on the FSCO Renewal Form, which the commission adopts and incorporates by reference herein, as published by the Missouri Gaming Commission, 3417 Knipp Dr., PO Box 1847, Jefferson City, MO 65102, and which may be accessed at <http://www.mgc.dps.mo.gov>. The FSCO Renewal Form does not incorporate any subsequent amendments or additions as adopted by the commission on October 30, 2019.

[(4)]**(5)** The applicant shall be responsible for keeping the application current at all times. The applicant shall notify the commission in writing within ten (10) days of any changes to any response in the application, and this responsibility shall continue throughout any period during which an application is being considered by the commission. All updates to applications must be submitted by exhibit so that each affected exhibit is resubmitted with the updated information and with the date of resubmission. If any application update is not made in this manner, the commission may deem the update ineffective.

[(5)](6) The commission may require an affidavit, signed on behalf of the applicant or licensee, to be submitted as an addendum to the Application, regarding matters related to the applicant or licensee or the proposed operation, including, but not limited to, the involvement of any individual in the proposed or licensed operations of the applicant or licensee.

[(6)](7) No license shall be issued to an applicant until the applicant has provided all of the required forms and requested documents pursuant to this rule.

[(7)]The FSCO license expires one (1) year after the date of issuance.](8) The licensed FSCO shall submit the **notice of renewal** [application] at least [four (4)] **two (2)** months prior to the expiration date of the FSCO license.

AUTHORITY: sections 313.910, 313.925, 313.935, 313.950, and 313.955, RSMo 2016. Emergency rule filed Aug. 29, 2016, effective Sept. 8, 2016, expired March 6, 2017. Original rule filed Aug. 29, 2016, effective March 30, 2017. Amended: Filed October 31, 2019.

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.

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Title 11—DEPARTMENT OF PUBLIC SAFETY
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11 CSR 45-40.050 Operational Requirements for Fantasy Sports Contest Operators. The commission is adding subsection (1)(H); amending section (4); removing section (3); and renumbering accordingly.

PURPOSE: This amendment adds the requirement for fantasy sports operators to describe the method used to determine the location of a player at time of entry into any fantasy sports contest to be consistent with SB 87, 100th General Assembly.

(1) Each licensed operator shall maintain on file with the commission the following:

(F) A detailed description of its procedures and measures taken to clearly and conspicuously identify highly experienced players in FSC by a symbol attached to a player's username, or by other easily visible means, on the licensed operator's authorized internet website; *[and]*

(G) A detailed description of its online self-exclusion process *[.]*; **and**

(H) A detailed description of the method used to determine the geographical position of a player at the time of entry into any FSC.

[(3) Upon request, each licensed operator shall provide the commission with a current and accurate list of Missouri residents who have submitted the operator's online self-exclusion form, which the licensed operator developed pursuant to section 313.920, RSMo.]

[(4)] **(3)** Each licensed operator shall take commercially and technologically reasonable measures to comply with the provisions of sections 313.915 and 313.920, RSMo, regarding the verification of each FSC player's true identity, date of birth, and address, including, but not limited to, independent verification of age using information obtained from independent sources outside of the player seeking to open an account. Third party services may be used to verify the age **and location** of a player. Each licensed operator shall use such information, at a minimum, to prevent underage individuals from establishing accounts, *[to verify state of residence,]* and to prevent players from establishing more than one (1) account or username or playing anonymously.

[(5)] **(4)** Upon discovery of a registered account held by a minor, the FSCO shall promptly refund any money held in a minor's account, whether or not the minor has engaged in or attempted to engage in game play. A FSCO may refuse to award a prize to a minor upon a good-faith determination, following reasonable investigation, that the minor misrepresented his or her age in order to enter the FSC, provided, however, that such prize must then be awarded to another participant in the contest who would have won the prize had the minor not participated.

[(6)] **(5)** Prior to conducting any individually targeted advertising or marketing, but not more than once a week, the licensed operator shall do the following:

(A) Download the current List of Disassociated Persons (DAP List) and the MGC Excluded Persons List from the designated MGC server;

(B) For email marketing campaigns, compare the email addresses from the marketing list to the DAP List and the MGC Excluded Persons List and remove anyone whose email address is found to be on either List (DAP or Excluded);

(C) For direct mail marketing campaigns to non-registered players, search and remove from the marketing list any person who has the same name and address of any person found to be on either List (DAP or Excluded); and

(D) For direct mail marketing campaigns to registered players, search and remove from the marketing list any player who has the same date of birth, first or last name, and address of an individual on either List (DAP or Excluded).

[(7)](6) If a licensed operator ceases offering fantasy sports contests in Missouri, the licensed operator shall notify the commission of the date of cessation. Notice shall be provided within ten (10) days of the cessation.

AUTHORITY: sections 313.915, 313.920, 313.925, 313.950, and 313.955, RSMo 2016. Emergency rule filed Aug. 29, 2016, effective Sept. 8, 2016, expired March 6, 2017. Original rule filed Aug. 29, 2016, effective March 30, 2017. Amended: Filed October 31, 2019.

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.

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Title 11—DEPARTMENT OF PUBLIC SAFETY
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11 CSR 45-40.060 [Cash Reserve and] Segregated Account Requirements. The commission is amending the Title, the Purpose, and sections (1), (3), (4), and (5); removing section (2); and renumbering accordingly.

PURPOSE: This amendment changes the requirement that describes how fantasy sports contest operators segregate player funds from operational funds for fantasy sports contest operators to be consistent with SB 87, 100th General Assembly.

PURPOSE: This rule addresses the [minimum cash reserve and] segregated account requirements [and the required procedures and documentation for those reserves and segregated accounts] for the protection of player funds.

(1) The licensed operator shall maintain *[in the form of cash or cash equivalents the amount of the deposits made to the accounts of Missouri fantasy sports contest players for the benefit and protection of the funds held in such accounts. For purposes of this rule cash equivalents are investments with an original maturity of three (3) months or less]* **a special purpose entity approved by the commission to segregate player funds from operational funds as required by section 313.915, RSMo.**

[(2) Funds held in player accounts of Missouri residents shall be protected as set forth herein. A fantasy sports operator shall maintain a reserve in the form of cash, cash equivalents, or a combination thereof to protect player funds.

(A) The amount of the reserve shall be equal to, at a minimum, the sum of all registered players' funds held in player accounts of Missouri residents.

(B) The reserve agreements must reasonably protect the reserve against claims of the operator's creditors other than the authorized players for whose benefit and protection the reserve is established, and must provide the following:

1. The reserve shall be established and held in trust for the benefit and protection of authorized players to the extent the licensed operator holds money in player accounts for players;

2. The reserve must not be released, in whole or in part, except upon written instruction or approval of the commission. The reserve must be available within ninety (90) days of written demand or written instruction. If the reserve is released to the commission, the commission may interplead the funds in the circuit court of Cole County for distribution to the authorized players for whose protection and benefit the account was established and to the other such persons as the court determines are entitled thereto, or shall take such other steps as necessary to effect the proper distribution of the funds, or may do both;

3. The licensed operator may receive income accruing on the reserve, without obtaining permission from the commission; and

4. The licensed operator has no interest or title to the reserve.

(C) The reserve must be held or issued by a federally insured financial institution and must be established pursuant to a written agreement between the licensed operator and the financial institution.

(D) *The proposed reserve arrangement is not effective for purposes of complying with section 313.930.3(4), RSMo, until the commission's written approval has been obtained.*

(E) *The reserve arrangement agreements may be amended only with the prior written approval of the commission.*

(F) *The account shall be maintained and controlled by a properly constituted corporate entity that is not the fantasy sports contest operator and whose governing board includes one (1) or more corporate directors who are independent of the fantasy sports contest operator and of any corporation related to or controlled by the fantasy sports contest operator. The corporate entity must meet the following requirements:*

1. *The corporate entity must require a unanimous vote of all corporate directors to file bankruptcy;*

2. *The corporate entity must obtain permission from the Missouri Gaming Commission prior to filing bankruptcy or entering into receivership;*

3. *The corporate entity must have articles of incorporation that prohibit commingling of funds with that of the fantasy sports contest operator except as necessary to reconcile the accounts of players with sums owed by those players to the fantasy sports contest operator;*

4. *The corporate entity must be restricted from incurring debt other than to fantasy sports players pursuant to the rules that govern their accounts for contests;*

5. *The corporate entity must be restricted from taking on obligations of the fantasy sports contest operator other than obligations to players pursuant to the rules that govern their accounts for contests; and*

6. *The corporate entity must be prohibited from dissolving, merging, or consolidating with another company without the written approval of the Missouri Gaming Commission while there are unsatisfied obligations to fantasy sports contest players.]*

*[(3)](2) If, at any time, the [licensed operator's total available cash and cash equivalent reserve is] **funds held by the special purpose entity** are less than the amount required by section 313.915, RSMo, the licensee shall notify the commission of this deficiency within forty-eight (48) hours.*

*[(4)](3) Each licensed operator shall continuously monitor and maintain a record of all [player deposits and its cash reserves] **funds held in player accounts and the amount held by the special purpose entity** to ensure compliance with [the cash reserves requirement] **section 313.915, RSMo.***

*[(5)](4) The licensed operator shall provide the commission with documentation of both the amount of [deposits in players' accounts and the amount in cash reserves] **funds held in player accounts and the amount held by the special purpose entity** as of the last day of each month by the fifteenth (15th) day of the following month.*

AUTHORITY: sections 313.915, 313.950, and 313.955, RSMo 2016. Emergency rule filed Aug. 29, 2016, effective Sept. 8, 2016, expired March 6, 2017. Original rule filed Aug. 29, 2016, effective March 30, 2017. Amended: Filed May 31, 2018, effective Jan. 30, 2019. Amended: Filed October 31, 2019.

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.

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11 CSR 45-40.070 Operational Fees. The commission is amending section (1).

PURPOSE: This amendment changes the date to submit the Annual Operation Fee report for fantasy sports contest operators to be consistent with SB 87, 100th General Assembly.

(1) The applicant or licensed operator shall file an Annual Operation Fee (AOF) report and all required supporting documentation with the commission by *[January 15]* **September 1** of each year for the previous calendar year. The annual operation fee shall be reported on the AOF report, which the commission adopts and incorporates by reference herein, as published by the Missouri Gaming Commission, 3417 Knipp Dr., PO Box 1847, Jefferson City, MO 65102, and which may be accessed at <http://www.mgc.dps.mo.gov>. The AOF report does not incorporate any subsequent amendments or additions as approved by the commission on *[February 28, 2018]* **October 30, 2019**.

AUTHORITY: sections 313.910, 313.935, 313.950, and 313.955, RSMo 2016. Emergency rule filed Aug. 29, 2016, effective Sept. 8, 2016, expired March 6, 2017. Original rule filed Aug. 29, 2016, effective March 30, 2017. Amended: Filed March 1, 2018, effective Oct. 30, 2018. Amended: Filed October 31, 2019.

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

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Title 11—DEPARTMENT OF PUBLIC SAFETY
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11 CSR 45-40.090 Records and Record Retention. The commission is amending sections (1) and (4).

PURPOSE: This amendment changes language to be consistent with SB 87, 100th General Assembly.

(1) Each licensed operator shall maintain complete, accurate, legible, and permanent records of all transactions pertaining to its revenues, expenses, assets, liabilities, and equity. Records shall be sufficient to adequately reflect total entry fees, entry fees collected from **players located in Missouri** *[residents]*, net revenue, winnings paid, prizes awarded, and other fantasy sports contest transactions which accurately reflect the requirements and restrictions contained in this chapter and in Chapter 313, RSMo.

(4) Each licensed operator shall maintain a record, by date, of the total entry fees received from players *[residing]* **located** in the United States, grouped by *[resident]* state, and the total entry fees received from players *[residing]* **located** outside the United States.

AUTHORITY: sections 313.910, 313.930, 313.950, and 313.955, RSMo 2016. Emergency rule filed Aug. 29, 2016, effective Sept. 8, 2016, expired March 6, 2017. Original rule filed Aug. 29, 2016, effective March 30, 2017. Amended: Filed October 31, 2019.

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Title 11—DEPARTMENT OF PUBLIC SAFETY
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11 CSR 45-40.100 Audits. The commission is amending section (2); removing section (1); and renumbering accordingly.

PURPOSE: This amendment changes language to be consistent with SB 87, 100th General Assembly.

[(1) Independent certified public accountants (C.P.A.s), shall conduct annual financial and authorized internet website audit of each licensed operator.]

[(2)](1) The annual financial [and authorized internet website] audit shall be conducted by an independent certified public accountant (C.P.A.) in accordance with generally accepted auditing standards as follows:

(A) Audit the licensed operator's annual financial statements in order to report on the fair representation of such amounts. The C.P.A. shall reconcile these audited amounts to similar amounts on the annual financial reports and system reports; and

*(B) Audit the annual total entry fees, entry fees from **players located in Missouri [residents], [resident] location** percentage calculation, winnings paid, net revenue, and the annual operation fee from the most recently filed Annual Operation Fee report, in order to report on the fair representation of such amounts. The C.P.A. shall reconcile these audited amounts to similar amounts on the annual financial reports and system reports[; and*

(C) Audit the licensed operator and its authorized internet website for compliance with each requirement set forth in sections 313.900 to 313.955, RSMo, and Chapter 11 CSR 45-40].

AUTHORITY: sections 313.910, 313.915, 313.940, 313.950, and 313.955, RSMo 2016. Emergency rule filed Aug. 29, 2016, effective Sept. 8, 2016, expired March 6, 2017. Original rule filed Aug. 29, 2016, effective March 30, 2017. Amended: Filed March 1, 2018, effective Oct. 30, 2018. Amended: Filed October 31, 2019.

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