

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

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Gaming Commission (MGC) under section 313.955, RSMo Supp. 2016, the commission adopts a rule as follows:

11 CSR 45-40.020 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on October 3, 2016 (41 MoReg 1314–1315). Changes have been made to the text of the proposed rule, so it is reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** A public hearing was held on this proposed rule on November 2, 2016. One person commented on this proposed rule at the public hearing and also submitted those comments in writing. The MGC staff commented on this rule.

**COMMENT #1** Daniel Haight, on behalf of Yahoo!, commented that he had concerns regarding exhibit #5 and #12 of the Fantasy Sports Contest Operator Application. He wants the application to be restricted to obtaining information from the division of the operator focused on paid fantasy sports contests, and not other businesses the applicant runs. Alternatively, he suggested the regulations should give the Commission discretion to make modifications to the Application on a case by case basis, particularly when dealing with companies that have various and unrelated product offerings. Additionally, he stated, “This rule should apply not only to background checks, but to provisions of the Act and associated regulations that request provision of several years of all of a company’s tax returns and associated audits and adjustments. Indeed, it should also be made clear that the required information is restricted to tax returns in Missouri. Further, the provisions requiring personal information of Yahoo employees should be limited to those who oversee our paid fantasy offerings, and there should be a similar limitation in the rules regarding accounting representations, accounting reps, bank accounts and representatives, legal representatives, and underwriters. Finally, people who are authorized to sign the license application on behalf of the company should also be the ones who run the fantasy sports business.”

**RESPONSE:** Section 313.910, RSMo requires the Commission to provide forms on which the applicant demonstrates financial suitability consistent with the best interest of the Missouri fantasy sports industry. Title 11 CSR 45-1.100 gives the Commission the authority to waive or grant a variance to any provision of this rule other than those mandated by the relevant statutes. No changes were made in response to this comment.

**COMMENT #2:** Mr. Haight stated that “Every officer, board director and general partner should not be required to be fingerprinted by the FBI when only a small portion of that entity’s business is devoted to paid fantasy sports.”

RESPONSE AND EXPLANATION OF CHANGE: It was not the intent of the Commission to request a FSCO Personal Disclosure Form from every employee or key person of every applicant, only those specified by the Commission. The language in section (3) was revised to clarify this intent.

COMMENT #3: Mr. Haight stated, “Specifically, 11 CSR 45-40.020 Application for Fantasy Sports Contest Operator License, and the associated ‘Applicant’s Authorization and Request to Release Information’ form, gives the Missouri State Highway Patrol and MGC Financial Investigators a very broad (and lengthy in duration) power of attorney which would allow for requests of documentation that are unrelated to Yahoo’s Fantasy Sports business, as well as permits Missouri to sign documents as an agent of Yahoo. In order for Yahoo to submit our application, we would have to waive any privilege with regard to confidential information (which may be unrelated to our Fantasy Sports business), and via the Release of Claims document, release the State from any claim resulting from a disclosure of such information.”

RESPONSE: The Commission’s ability to fulfill its statutory obligation to investigate applicants pursuant to 313.950, RSMo would be inhibited without a completed ‘Applicant’s Authorization and Request to Release Information’ form. Section 313.910, RSMo requires the Commission to provide forms on which the applicant demonstrates experience, reputation, competence, and financial responsibility consistent with the best interest of the Missouri fantasy sports industry. Title 11 CSR 45-1.100 gives the Commission the authority to waive or grant a variance to any provision of this rule other than those mandated by the relevant statutes. No changes were made in response to this comment.

COMMENT #4: The MGC noted that the name of the person authorized to receive this information on Form 943 needed to be revised.

RESPONSE AND EXPLANATION OF CHANGE: The Commission revised Form 943 of the Fantasy Sports Contest Operator Application to change the name of the individual to whom the applicant’s tax information is to be released.

COMMENT #5: The MGC noted that the Revisor of the *Missouri Revised Statutes* renumbered the sections of the statute created by HB 1941, the Missouri Fantasy Sports Consumer Protection Act (The Act).

RESPONSE AND EXPLANATION OF CHANGE: The Commission revised the Application which is incorporated by reference, section (2), and the authority section to reference the renumbered sections of The Act.

COMMENT #6: The MGC noted that the FSCO Personal Disclosure Form needed to be updated to include new codes for the Place of Birth and the Country of Citizenship.

RESPONSE AND EXPLANATION OF CHANGE: The Commission revised the FSCO Personal Disclosure Form to include changes for the new codes and section (3).

### **11 CSR 45-40.020 Application for Fantasy Sports Contest Operator License**

(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.

(3) The applicant shall be responsible for ensuring the FSCO Personal Disclosure Form is completed by those key persons, employees, or other individuals requested by the commission. The requested FSCO Personal Disclosure Forms and the required fingerprint sets shall be submitted within thirty (30) days of the commission's request. The commission adopts and incorporates by reference herein, the FSCO Personal Disclosure Form, 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 Personal Disclosure Form does not incorporate any subsequent amendments or additions as adopted by the commission on December 7, 2016.

*AUTHORITY: sections 313.910, 313.925, 313.935, 313.950, and 313.955, RSMo 2016. Emergency rule filed August 29, 2016, effective Sept. 8, 2016, expires March 6, 2017. Original rule filed Aug. 29, 2016.*