

# Emergency Rules

**Title 1—OFFICE OF ADMINISTRATION  
Division 20—Personnel Advisory Board and  
Division of Personnel  
Chapter 2—Classification and Pay Plans**

## **EMERGENCY AMENDMENT**

**1 CSR 20-2.015 Broad Classification Bands [for Managers].** The board is amending sections (1)–(3) and (6) and deleting existing sections (4) and (5).

*PURPOSE: This amendment revises this rule pursuant to changes to Chapter 36, RSMo made by Senate Bill 1007 (2018).*

*PURPOSE: The board is establishing this rule to provide for the broadbanding of [manager] positions within agencies covered by the uniform classification and pay provisions of the State Personnel Law. This rule provides for the formation and administration of a system of broadbanding applicable to [manager] positions within affected state agencies. The Division of Personnel and the Personnel Advisory Board may exercise authority and responsibility for preparation, adoption, maintenance, and revision of that part of the classification and pay plan which includes provisions for grouping of [management] positions with similar levels of responsibility or expertise into broad classification bands in the classified and covered services. This rule provides the framework within which this authority may be exercised.*

*EMERGENCY STATEMENT: This emergency amendment incorporates and implements changes to the law effected by Senate Bill 1007 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to Chapter 36, RSMo made by Senate Bill 1007 (2018) across the departments and agencies of the executive branch of Missouri state government. Provisions of the existing rule are inconsistent with the provisions of Chapter 36, RSMo, effective August 28, 2018, and must be amended to avoid confusion or improper application, avoid potential liabilities, and ensure consistent implementation of Senate Bill 1007 (2018). A proposed amendment which covers the same material will be filed at a later date to be published in the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 17, 2018, becomes effective August 28, 2018, and expires February 28, 2019.*

(1) Standards and Methods. After consultation with appointing authorities or their designated representatives, the director shall establish and maintain the standards and methods for identifying [management] positions subject to the law for broad classification bands and pay band designations.

(2) Classification Plan. The provisions of 1 CSR 20-2.010 [The Classification Plan] are applicable in the preparation and maintenance of broad classification bands [for managers], except as specifically outlined in this section[,] or necessary for implementation. The class specifications for broadbanded classifications shall be designed to encompass a broad spectrum of [management] positions in generic and agency-specific classes, or may provide for broader applications when the director determines that agency and system needs can be met in a consistent, equitable, and appropriate manner.

(A) Preparation of the Plan. The director shall ascertain the duties,

authority, and responsibilities of [all manager] positions subject to the law. [Positions that do not meet the standards for broad classification bands for managers will be evaluated for assignment to classes determined to be more appropriate in the general classification plan under 1 CSR 20-2.010.] The broad classification bands shall group [manager] positions in very broad classes which generally describe the duties, authority, and responsibilities of [managers] positions and cover [all] various pay band levels. The [manager] broadbanded class specifications are not specific to individual positions or programs. Two (2) kinds of broadbanded [manager] classes, common-use and agency-specific may be used. Common-use classes will accommodate functions which cross agency lines. Agency-specific classes will encompass functions distinct to an individual agency. Each [manager] broadbanded class specification will have a class title; statement of the duties, authority, and responsibilities; examples of duties performed; knowledge, skills, and abilities; and the necessary qualifications, provided that equivalent substitutions will be allowed for deficiencies in education or experience. Upon adoption by the Personnel Advisory Board, the broadbanded [manager] classes shall become part of the uniform classification and pay plan.

(B) Allocation of a Position. Before establishing a new [manager] broadbanded position subject to the law, an appointing authority shall provide the director with a written statement of the duties, authority, and responsibilities to be assigned. The director will determine an appropriate [manager] class and pay band assignment based on the duties, authority, and responsibilities of the position.

[(C) Reallocation of a Position Into, Within, and Out of the Broad Classification Bands. If a position in the classified service is reallocated to a different class and/or band or range, the employee shall continue in the position only in accordance with the rules governing appointments, transfers, demotions or, with the approval of the director, by reclassification. If any change is made in the broadbanded manager classes, the director shall reallocate the positions affected to an appropriate class in the amended plan. For positions in the classified service, an employee who is occupying a position reallocated to a different class shall be given the same status in the new class and band or range as previously held in the class and band or range from which his or her position is reallocated (see section 36.120, RSMo).]

(3) Compensation Structure. The director will recommend to the board establishment and adoption of pay bands as considered necessary and equitable in order to group and maintain positions with similar levels of [management] responsibility or expertise. The provisions of 1 CSR 20-2.020 [The Pay Plan] are applicable in the preparation, adoption, maintenance, and administration of the pay plan for broad classification bands, except as specifically outlined in this section or necessary for implementation.

[(A) Preparation. The pay plan may include provision for grouping of management positions with similar levels of responsibility or expertise into broad classification bands for purposes of determining compensation and provision for such salary differentials and other pay structures as the director considers necessary or equitable. The broad classification bands shall include a minimum and a maximum rate, and such intermediate rates of pay as the director considers necessary or equitable. The initial pay plan for divisions of service, when first brought under the provisions of the law, shall be prepared in this same manner and, upon adoption, become a part of the general pay plan.]

[(B)](A) Administration. The implementation and ongoing administration of pay within the broad classification bands shall be conducted in a manner which promotes equitable pay relationships and the efficient and effective practice of personnel administration. When the meaning and purpose of a rule is not otherwise affected, the term

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band may replace range. *[Appointing authorities shall have a responsibility to exercise the discretion included in these rules in a manner which avoids inconsistent, arbitrary, or discriminatory pay actions.]* The pay plan for the broadbanded system shall be administered in accordance with 1 CSR 20-2.020 and the following provisions:

1. Appointment rate. The initial appointment rate to a position in a broad classification band is at the discretion of the appointing authority. In making these determinations, consideration should be given to the individual's qualifications, permanent position-related factors, such as working conditions or physical location of work, and/or recruitment or staffing needs. *The proposed rate of pay should not exceed that which is being paid to present employees with comparable qualifications in similar position-related circumstances;*

2. Salary advancements. Salary advancements within the band occupied by an employee are of three (3) types: probationary salary advancements, specific salary advancements authorized during a fiscal year, and discretionary salary advancements, administered in accordance with the following provisions:

A. A probationary salary advancement is *[authorized]* permitted for an employee covered under section 36.030.1(2), RSMo, upon successful completion of the *[initial]* probationary period. An appointing authority may grant a salary advancement following successful completion of a probationary period in a *[higher level]* band or after an appropriate period of time following upward reclassification;

B. Within-grade, market progression, or other specific salary advancements within the pay bands, which are only authorized during a fiscal year when specific funding has been appropriated *[for all agencies]*, will be implemented in accordance with guidelines and instructions issued by the board;

C. Discretionary salary advancements may be granted by an appointing authority as warranted by the needs of the service. *For classified positions in the broadbanded service, discretionary salary advancements cannot be given during a probationary period, unless approved by the director of the Division of Personnel in cases where it does not affect competitive appointments that would compromise the selection group as enumerated in 1 CSR 20-3.030(3)(A);* and

D. In the broadbanded *[management]* service, a conditional salary advancement is a discretionary within-band advancement associated with the assignment of higher level duties or responsibilities of a permanent nature. At the discretion of the appointing authority, and without appeal to the Administrative Hearing Commission, such higher level duties and responsibilities and the associated conditional salary advancement may be withdrawn *[within a period of time not to exceed twenty-four (24) months]* as specified by the appointing authority. When a conditional salary advancement is established, the appointing authority will provide the affected employee with written notice describing the conditions under which the advancement is given and the *[time frame during]* conditions under which it can be withdrawn.

*[(C)](B)* Within-Band Salary Decreases. Salary reductions within the band may be made for any amount by the appointing authority. Reasons for such decreases include: changes in duties or organization which do not adversely reflect on the employee; within-band movement to a position of lesser value; a permanent and substantial decline in the scope or complexity of assignment; or, an involuntary within-band transfer for cause such as inadequate performance or misconduct as provided for in 1 CSR 20-3.070(2). An involuntary salary decrease within the band, **when applied to the salary of a classified employee covered under section 36.030.1(2), RSMo**, other than one (1) associated with a conditional salary advancement, shall be treated as a demotion and may be appealed by the affected employee in accordance with *[1 CSR 20-4.010(1)(D)] statute and these rules*.

*[(D)](C)* Pay Rates in Transfer, Promotion, Reclassification, or Demotion. If an employee is transferred, promoted, reclassified, or demoted, the rate of pay, giving consideration to equity, shall be as follows:

1. An employee's rate of pay must fall within the minimum and maximum of their assigned pay band, except as provided for in paragraph *[(3)(D)3.] (3)(C)3.* of this rule;

2. An employee's rate of pay within the appropriate band will depend on the type of personnel transaction. Consistent application of formulas or guidelines by appointing authorities in cases of promotions, reclassifications, and demotions will promote equitable treatment of employees affected by these actions.

A. In the case of within-band transfer, which involves a change of an employee from one (1) position to another position in the same class or another class assigned to the same established pay band and which may involve a change of assignment or work location, the salary rate shall be determined by the appointing authority.

B. In the case of promotion or upward reclassification, which involves a change of an employee from a position in one (1) band to a position in a higher band, the salary rate *[shall]* may be increased, **or, at the discretion of the appointing authority, may stay the same.**

C. In the case of voluntary demotion, demotion for cause, or downward reclassification, which involves movement from one (1) band to a lower band, the salary rate will be at the discretion of the appointing authority.

D. In the case of an out-of-band transfer, which involves movement from a pay band to a pay range, the employee may accept a voluntary reduction in salary. *[If the rate of pay does not correspond to an established step in the range, the rate of pay shall be adjusted to the next higher step in the range. An]* **For employees covered under section 36.030.1(2), RSMo**, an involuntary salary reduction is considered a demotion and may be appealed by the affected employee in accordance with *[1 CSR 20-4.010(1)(D)] statute and these rules;* and

3. If an employee's previous rate of pay is more than the maximum rate established for the pay band to which the position is assigned, the employee's rate of pay may be approved in accordance with the following provisions:

A. When a department, division, work unit, class of employees, or other entity of state government is initially made subject to the classification provisions of the State Personnel Law, the Personnel Advisory Board may approve salary rates above the established maximum rates for the affected employees. In each case where an above-the-maximum rate has been authorized by the Personnel Advisory Board, the rate of pay will be clearly recorded as an above-the-maximum rate, and the affected employee will not be eligible for any additional type or amount of salary adjustment or advancement until the rate of pay falls within the pay band to which the position is assigned;

B. When a position is reallocated to a lower pay band or to a pay range, the appointing authority, with approval of the personnel director, may elect to establish an above-the-maximum rate. If the appointing authority elects to establish an above-the-maximum rate, the rate of pay will be clearly recorded as an above-the-maximum rate, and the affected employee will not be eligible for any additional type or amount of salary adjustment or advancement until that time as his/her rate of pay shall fall within the pay band or pay range to which the position is assigned; and

C. An above-the-maximum rate established under subparagraphs *[(3)(D)3.A.] (3)(C)3.A.* and B. will continue while the employee remains in the same or higher pay band in the same department and is above-the-maximum rate for the assigned band. The payment of a differential authorized by the Personnel Advisory Board will be allowed where applicable, and the salary of an affected employee who enters or exits a position covered by this differential will be adjusted in a manner consistent with agency policy and practice. When

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an employee receiving an above-the-maximum rate of pay transfers to a position in the same class and pay band in another department covered by the classification and pay provisions of the State Personnel Law, the appointing authority of the receiving agency shall have the discretion to continue the authorized above-the-maximum rate, to establish a different, but lower rate of pay which exceeds the established maximum of the appropriate pay band, or to reduce it to a rate within the pay band for the position. Once the pay band can accommodate the rate of pay, the above-the-maximum rate will be void and the employee's compensation will be subject to the provisions contained elsewhere in the rules.

*[(4) Certification and Appointment. The provisions of 1 CSR 20-3.030 Certification and Appointment are applicable in the administration of broad classification bands for managers in agencies covered by the merit system provisions of the State Personnel Law, except as specifically outlined in this section or necessary for implementation. This section prescribes the conditions under which broadbanded manager positions in the classified service may be filled by certification and appointment from merit system registers and by other types of appointment authorized in the merit system law.]*

*(A) Reinstatement. When vacancies to be filled in a class occur in a division of service from which employees in the class have been laid off, or demoted in lieu of layoff, certification from the reinstatement register first shall be limited to previous employees of the division of service until all the available employees have been reinstated in order of rank on reinstatement register.*

*(B) Within-Band Transfers. An appointing authority may assign an employee in the classified service with regular status from one (1) position to another position in the same pay band in the same or different class, providing the employee possesses the necessary qualifications. Such transfer of an employee from one (1) division in the classified service to a position in another division in the classified service may be made with the approval of the director and both appointing authorities. Upon making this assignment, the appointing authority shall prepare and submit the necessary personnel transaction. Transfers of employees made because of a layoff or shortage of work or funds which might require a layoff shall be governed by 1 CSR 20-3.070 and the layoff procedures adopted.*

*(C) Out-of-Band Transfer. An out-of-band transfer is the movement of an employee from a position in a band to a position in a range which does not require a change in salary. The employee must possess the qualifications for the class. Such transfers may be voluntary or involuntary. In the case of a permanent involuntary transfer of an employee from a position in a band to a position in a range, the appointing authority shall give written notice of the action to the director and to the employee thirty (30) days prior to the effective date of the action. Within thirty (30) days of receipt of such notice, the affected employee may make a written request for review by the director. The request must include the employee's reasons for requesting review, including the degree of economic and professional impact of the action and why, in the employee's opinion, the action was not for the good of the service. The director shall conduct an appropriate investigation, taking into consideration information received from the employee and the appointing authority, and shall approve or disapprove the transfer. Both the employee and the appointing authority are notified of the director's decision.*

*(D) Reemployment. Any person who has obtained regular status in a class and band in a classified position and who has resigned from state service in good standing may be reemployed without competitive certification in the same*

*class and the same or lower band at the discretion of an appointing authority. Any person who has successfully served at least one (1) year in a covered position in the uniform classification and pay service as defined by section 36.031, RSMo, and who has resigned from state service in good standing or who has accepted demotion or transfer for personal reasons, may be reemployed in a merit service agency without competitive certification in the same class and the same or lower band at the discretion of the appointing authority provided the employee possesses the qualifications and has successfully completed an examination for the class involved.*

*(5) Probationary Period. The probationary or working test period shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to his/her position, and for rejecting any employee whose performance does not meet the required work standards.*

*(A) Duration. Every person given an initial appointment, inter-band appointment to a position in a higher band, or reemployment appointment shall be required to successfully complete a working test. An employee reinstated by the same appointing authority after a two (2)-year period from the date of layoff would serve a probationary period; an employee reinstated by a different appointing authority at any time will also serve a probationary period. The normal length of probation for managers in the broad classification bands shall be twelve (12) months. The maximum length of probation shall be eighteen (18) months and the minimum length of probation shall be six (6) months for managers serving initial or inter-band appointment to higher bands. An employee successfully completing a probationary period following an initial or inter-band appointment shall be considered a regular employee with respect to the class and band as defined in section 36.020 (14), RSMo, and shall have all the rights and privileges accorded regular employees under section 36.390. 5., RSMo.*

*(B) Restoration Rights. An employee given an inter-band appointment from a lower band to a higher band in the broad classification service who does not successfully complete the promotional probationary period shall be reinstated to a position in the class and band occupied by the employee immediately prior to promotion or in another manager class in the same band. An employee appointed from a position in a class assigned to a pay range to a position in the broad classification bands who does not successfully complete the probationary period shall be reinstated to a position in the class and pay range occupied immediately prior to the appointment or in a comparable class.]*

*[(6)](4) Separation, Suspension, and Demotion. The provisions of 1 CSR 20-3.070 are applicable in the administration of broad classification bands [for managers in agencies] for positions covered by [the merit system provisions of the State Personnel Law] section 36.030.1(2), RSMo, except as specifically outlined in this section, or necessary for implementation.*

*[(A) Layoffs in the broad classification bands shall be conducted by class and band, or through the application of 1 CSR 20-3.070(1)(G) when special circumstances exist and the needs of the service so require.]*

*[(B)](A) Demotions. An appointing authority may not demote an employee [in accordance with the following:*

*1. No demotions] for cause [shall be made] unless the employee to be demoted meets the minimum qualifications for the lower position demoted to, and [shall not be made if any] no regular employee in the affected class and band or range would be laid*

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off by reason of the action[; and].

*[2. A regular employee shall be demoted in lieu of layoff within the employee's division of service to a position in a lower band in the same class; or shall be demoted in lieu of layoff within the employee's division of service to a position in a class in which the employee previously has obtained regular status within any merit system agency. Such action shall be taken upon written request by the affected employee to the appointing authority and shall occur even though this action may result in a layoff in the class to which the employee is demoted. The appointing authority may also, upon written request of the regular employee affected, demote such employee in lieu of layoff to a position in the employee's division of service for which the employee meets the qualifications, even if these actions may result in additional layoffs. In the event of a demotion in lieu of layoff, an employee shall have his/her name placed on the appropriate register. Transfers in lieu of layoff will be governed by 1 CSR 20-3.070(1)(H).]*

*AUTHORITY: section 36.070, RSMo [2000] Supp. 2018. Original rule filed March 11, 1999, effective Sept. 30, 1999. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Aug. 17, 2018, effective Aug. 28, 2018, expires Feb. 28, 2019. An emergency amendment covering this same material will be published in the October 1, 2018, issue of the **Missouri Register**. A proposed amendment covering this same material will be filed at a later date to be published in the **Missouri Register**.*