

issued only after confirmation of available funding.

[(H) Inspections. The contractor is responsible for completion of all work in accordance with the contract documents. Periodic visits and observations by the inspector and designer are for assistance and shall not be used as a substitute for the contractor's required responsibilities under the terms of the contract.]

1. Pre-final inspection. When the contractor notifies the director's on-site representative that the contractor has substantially completed the work, *[s/he shall notify the inspector requesting a pre-final inspection and provide a complete list of all items remaining to be completed.]*, *[T]he [inspector] on-site representative*, with the designer and contractor, shall review this list, examine the work, and note any exceptions or additional items to be corrected or completed. After review of the items to be corrected and completed and considering the time necessary to accomplish these, a time and date will be set for final inspection.

2. Final inspection. Final inspection *[shall be]* is an examination of the completed project, with particular emphasis on the items for correction and completion established in the pre-final inspection. Representatives of the department/agency, *and when appropriate, the grantor or donor of support funding shall]* will be invited to participate in the final inspection along with the *[inspector] director's on-site representative*, the designer, and contractor. Any items remaining for correction and completion shall be noted and the contractor *[shall be]* given a specific time to accomplish these items. Items of testing and adjustment *[which] that* are incomplete due to seasonal requirements will be scheduled for completion in the appropriate season. Final acceptance may be made after completion of all items except for testing or adjusting seasonal equipment.

3. Warranty period. **All equipment, materials, and work should be guaranteed or warranted for at least one (1) year after final acceptance, unless otherwise approved by the director.** During the warranty period the facility operator shall inform the contractor of all deficiencies encountered needing correction. If not corrected within a reasonable period of time, the *[inspector] director's on-site representative* shall be notified.

4. Warranty inspection. *[All items of equipment, materials and work are guaranteed or warranted for at least one (1) year after final acceptance.]* During the tenth or eleventh month following completion, the designer shall schedule a meeting at the project site with the contractor, a representative of the department/agency/site, and a representative of the director. Performance of items under guaranty or warranty will be examined to assure that *[they are] the contractor* is providing satisfactory service. Deficiencies shall be noted and the contractor *[s shall be]* given a specific time for correction. Payment/performance bonds shall not be released until after the warranty inspection and correction of noted deficiencies. This warranty inspection shall not be construed to limit or relieve any **contractual** responsibility of the contractor to provide call-back or other service or correction of deficiencies during the warranty period for the equipment, materials, or work on the project.

[(4)](2) Exemptions. There are specific exemptions from requirements of this rule provided by the Missouri Constitution or by the Revised Statutes of Missouri.

(A) Department of Transportation projects and expenditures for highway construction and highway maintenance are exempted from provisions of this rule by Article IV, Section 29, *Missouri Constitution* of 1945.

(B) Institutions of higher learning, community junior colleges, and the Department of Conservation are exempted by section 8.310, RSMo from provisions of this rule which require coordination with or approval by the commissioner of administration, Division of Facilities Management, Design and Construction, or both, for soliciting and receipt of proposals, award of and payments for contracts and contract supervision.

[(C) The director of the Division of Facilities Management,

Design and Construction may waive the requirement of competitive bids for construction projects when the director has determined that there exists a threat to life, property, public health or public safety or when immediate projects are necessary for repairs to state property in order to protect against further loss of, or damage to, state property, to prevent or minimize serious disruption in state services or to ensure the integrity of state records. Emergency contracts for construction shall be made with as much competition as is practicable under the circumstances.]

AUTHORITY: sections 8.310 and 8.320, RSMo [2000] 2016 and subsections 6 and 7 of section 15, 1974 Reorganization Act. Original rule filed July 9, 1981, effective Feb. 15, 1982. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 11, 2018.

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 Office of Administration, PO Box 809, Jefferson City, MO 65102. 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.

**Title 1—OFFICE OF ADMINISTRATION
Division 30—Division of Facilities Management, Design
and Construction
Chapter 3—Capital Improvement and Maintenance
Program**

PROPOSED AMENDMENT

1 CSR 30-3.050 Project Payments, Acceptance and Occupancy. The Division of Facilities Management, Design and Construction is amending sections (1) and (2) and deleting section (4) of this rule.

PURPOSE: This amendment deletes provisions that are unnecessarily restrictive. This amendment also revises the rule to better reflect FMDC's current practices and to increase the readability of the regulation.

PURPOSE: This rule establishes the procedures for payments[,] and acceptance and occupancy of projects.

(1) Payments. Payments *[shall]* to the contractor will be made after review and verification of work and materials in place and/or on-site. Review and verification *[shall]* will generally be accomplished as part of *[the]* a periodic construction progress meeting. **When possible, [A]pparent** differences between the requests for payment and work or material *[shall]* will be resolved *[in order]* so that the request for payment may be signed by the *[construction manager] director's on-site representative*, the contractor and the designer prior to conclusion of the progress meeting. *[The contractor's request for payment shall be transmitted expeditiously to the Division of Facilities Management, Design and Construction. Administrative processing and approval in the Office of Administration shall be completed within fifteen (15) working days after receipt by the director of the payment request.]* When *[required]* necessary, the payment request *[shall]*

will be transmitted to the department/agency. [Signature for t/The department/agency shall sign and return the payment request to the [Division of Facilities Management, Design and Construction shall be accomplished by the department/agency] division within five (5) working days after receipt of the payment request.

(A) Projects Costing One Hundred Thousand Dollars (\$100,000) or More. Payment for labor and material on projects costing one hundred thousand dollars (\$100,000) or more shall be made in accordance with section 8.260, RSMo [Supp. 2007]. [Requests for payments shall be submitted in the form and be supported by documentation as may be required by the director. When more than one (1) payment is made on those projects, the contractor shall furnish a payment certificate with the second and succeeding payment requests. The certificate shall affirm that subcontractors and suppliers have been paid in proportion to the work and materials paid for on previous payment requests.]

(B) Projects Costing Less Than One Hundred Thousand Dollars (\$100,000). Payment for labor and materials on projects costing less than one hundred thousand dollars (\$100,000) shall be made in accordance with section 8.270, RSMo [Supp. 2007]. [Requests for payment shall be submitted in the form and be supported by documentation as required by the director.]

(C) Final Payment. Final payment [shall] will not be made until all work under the contract has been completed and accepted, documentation as required by the director has been furnished, and project records have been delivered to the [construction manager. The contractor shall provide releases from all subcontractors and suppliers or a letter of release from the surety holding the performance and payment bond evidencing that they have been paid in full or covered by the bond provisions] director's on-site representative. After review and approval of the requests for payment, reports, records, and other documentation by the director or his/her designee, final payment may be made. [Administrative processing of final payment in the Office of Administration shall be completed within fifteen (15) working days after receipt by the director of completed documentation and final payment request.]

(D) Projects Supported with Non-Appropriated Funds. All payments for projects supported directly with donated, grant, or other funding not appropriated by the [g/General [a/Assembly shall be made in accordance with agreements established in the initial coordination of that project and after approval of the director or his/her designee.

(2) Acceptance and Occupancy.

(C) Project Records. The [construction manager/project manager] division shall deliver one (1) copy of project shop drawings, operation and maintenance manuals, record drawings, warranties, and all other pertinent files to a representative of the department/agency. The department/agency shall cause these records to be preserved and stored at the project site or other suitable location. Those records shall be readily available for reference in [maintenance, repair and] future work at the site.

(D) Reporting Changes in Facility Conditions. The department/agency [as part of the periodic facility inspection process] shall report any substantive change in condition of the facility to the [director] division. Substantive changes in condition of the facility resulting from accidents[,], or acts of God [or other causes] shall be reported to the [director] division at the time of occurrence.

[4] This rule becomes effective with the appropriation for the upcoming fiscal year.]

AUTHORITY: sections 8.310 and 8.320, RSMo [2000] 2016. Original rule filed July 9, 1981, effective Feb. 15, 1982. For intervening history, please consult the Code of State Regulations. Amended: Filed Oct. 11, 2018.

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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NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Office of Administration, PO Box 809, Jefferson City, MO 65102. 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.

Title 1—OFFICE OF ADMINISTRATION Division 35—Division of Facilities Management Chapter 1—Facility Maintenance and Operation

PROPOSED AMENDMENT

1 CSR 35-1.050 Public Use of State Facilities. The Division of Facilities Management, Design and Construction is amending all sections of this rule, moving the information regarding the use of parking lots to a new section (6), and adding completely new sections (4) and (8). The remaining sections have been renumbered to reflect these additions.

PURPOSE: The purpose of this amendment is to better reflect current practices, eliminate outdated information, and increase the readability of the regulation. Section (4) is being added to address the use of Carnahan Memorial Garden, and section (8) is being added to address the operation of unmanned aircrafts on state property. The information on parking lots is being moved to a separate section (section (6)) and has been revised to reflect current practices and clarify the meaning. Section (7) regarding weapons on state property (formerly section (5)) is being amended to address changes in state law and to allow authorized individuals picking up deposits from state agencies to carry weapons based on comments received. A limit on smoking was added to section (2) regarding public buildings and grounds other than the Capitol, to be consistent with current OA statewide policy SP-11.

(1) Facilities Subject to this Rule; Definitions.

(A) This rule governs public use of the Capitol Building and grounds[, as defined in subsection (1)(B) hereof,] and [of] other public buildings and grounds, as defined [in subsection (1)(D) hereof] herein.

(B) As used in this rule, the term "Capitol Building [and grounds]" means [the first floor of the Capitol rotunda, the museum area, corridors, restrooms and all other common areas on the first floor of the Capitol Building, the south steps of the Capitol Building, the circular drive and the Capitol grounds] all interior and exterior areas of the Missouri State Capitol Building, with the exception of the house and senate chambers, the house and senate committee rooms, the offices of members of the house and senate, the house and senate lounges, and the offices of the Governor, Lieutenant Governor, State Treasurer, Secretary of State, and State Auditor. The term "Capitol grounds," means all lands adjacent to the Capitol, as shown on Appendix A included herein, [extend to High Street on the south and to and to Jefferson Street on the east, but do not include Parking Lots Number 1, 2, 4 and 15A, nor the Highway and Transportation Building and its grounds nor the buildings and grounds known as "Lohman's Landing."] with the exception of Parking Garage No. 2.

[C] Regulations governing the public use of the Capitol Building and grounds are set forth in section (4) of this rule.