

RACING AND GAMING COMMISSION[491]

Notice of Intended Action

Proposing rule making related to proceedings, gambling, wagering, horse racing, gambling games, and fantasy sports contests and providing an opportunity for public comment

The Racing and Gaming Commission hereby proposes to amend Chapter 4, “Contested Cases and Other Proceedings,” Chapter 5, “Track, Gambling Structure, and Excursion Gambling Boat Licensees’ Responsibilities,” Chapter 8, “Pari-Mutuel Wagering, Simulcasting and Advance Deposit Wagering,” Chapter 10, “Thoroughbred and Quarter Horse Racing,” Chapter 11, “Gambling Games,” Chapter 12, “Accounting and Cash Control,” Chapter 13, “Sports Wagering,” and Chapter 14, “Fantasy Sports Contests,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 99D.7, 99E.3 and 99F.4.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 99D.7, 99E.3 and 99F.4.

Purpose and Summary

- Item 1 updates a citation to a codified Iowa Code section.
- Item 2 increases the administrative penalty for gaming board matters.
- Item 3 corrects the name of a degree.
- Item 4 clarifies language to allow for situations for which a contract already provides.
- Item 5 changes the 30-day requirement for submission of a qualifying agreement to 60 days for Iowa vendors.
- Item 6 incorporates language for consistency with the Iowa Code.
- Item 7 changes the 90-day requirement to 60 days to submit a network security risk assessment report.
- Item 8 rescinds a subrule to clarify that racing wagers are allowed no more than one hour ahead of scheduled post time.
- Item 9 adds a type of wager that may be prohibited in relation to contests with seven or fewer horses in a race.
- Item 10 clarifies which records held by advance deposit wagering operators should be available to the Commission.
- Item 11 allows for jockey agents to be in otherwise prohibited areas with advance written permission by the stewards.
- Item 12 allows for a type of bonus wager that is statistically dependent on other outcomes.
- Item 13 allows access to bank accounts on the gaming floor using a cashless system.
- Item 14 clarifies use of a form to attest to reserves on hand.
- Item 15 clarifies the way sports wagering operators report suspicious activities.
- Item 16 clarifies reporting requirements for sports wagering Internal Revenue Service form W-2G events.
- Item 17 clarifies which records held by advance deposit sports wagering (ADSW) operators should be available to the Commission.
- Item 18 eliminates the in-person registration requirement for sports wagering.
- Item 19 clarifies that an unusual, suspicious login attempt shall result in a locked account.
- Item 20 clarifies reserve requirements for ADSW operators.
- Item 21 clarifies expectations for change control process for ADSW operators.

Item 22 changes the 30-day requirement to 60 days to submit an ADSW system risk assessment report.
Item 23 removes a provision that prohibited fantasy sports wagers on collegiate events.
Item 24 clarifies which records held by fantasy sports operators should be available to the Commission.
Item 25 changes the 30-day requirement to 60 days to submit a fantasy sports contest system risk assessment report.
Item 26 removes a provision that prohibited fantasy sports wagers on collegiate events.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commission for a waiver of the discretionary provisions, if any.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commission no later than 4:30 p.m. on November 22, 2022. Comments should be directed to:

Barb Blake
Iowa Racing and Gaming Commission
1300 Des Moines Street
Des Moines, Iowa 50309
Email: barb.blake@iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

November 22, 2022
10 a.m.

Commission Office, Suite 100
1300 Des Moines Street
Des Moines, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Commission and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **491—4.2(17A)**, definition of “Contested case,” as follows:

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under ~~1998 Iowa Acts, chapter 1202, section 14~~ Iowa Code section 17A.10A.

ITEM 2. Amend rule 491—4.7(99D,99E,99F), introductory paragraph, as follows:

491—4.7(99D,99E,99F) Penalties (gaming board and board of stewards). All penalties imposed will be promptly reported to the commission and facility or other licensed entity in writing. The board may impose one or more of the following penalties: eject and exclude an individual from a facility; revoke a license; suspend a license for up to five years from the date of the original suspension; place a license on probation; deny a license; impose a fine of up to \$1,000; or order a redistribution of a racing purse or the payment of or the withholding of a gaming payout. The board of stewards may impose a fine of up to \$1,000, and the gaming board may impose a fine of up to \$3,000. The board may set the dates for which the suspension must be served. The board may also suspend the license of any person currently under suspension or in bad standing in any other state or jurisdiction by a state racing or gaming commission. If the punishment so imposed is not sufficient, in the opinion of the board, the board shall so report to the commission.

ITEM 3. Amend subrule 4.22(4) as follows:

4.22(4) An administrative law judge assigned to act as presiding officer in a contested case shall have a Juris ~~Docterate~~ Doctor degree unless waived by the agency.

ITEM 4. Amend subparagraph **5.4(8)“a”(1)** as follows:

(1) All contracts and business arrangements entered into by a facility are subject to commission jurisdiction. Written and verbal contracts and business arrangements involving a related party or in which the term exceeds three years or the total value in a calendar year exceeds \$100,000 regardless of payment method are agreements that qualify for submission to and approval by the commission. Contracts and business arrangements with entities licensed pursuant to rule 491—11.13(99F) to obtain gambling games and implements of gambling, as defined by rule 491—11.1(99F), are exempt from submission to and approval by the commission. For the purpose of this subrule, a qualifying agreement shall be limited to:

1. to 3. No change.

4. Any type of contract, regardless of value or term, where a third party provides electronic or mechanical access to cash or credit for a patron of the facility. ~~The~~ Where not already available, the contract must contain a clause that provides for immediate notification and implementation when technology becomes available to allow a person to voluntarily bar the person’s access to receive cash or credit from such devices located on the licensed premises.

ITEM 5. Amend subparagraph **5.4(8)“a”(3)** as follows:

(3) A qualifying agreement must be ~~submitted~~ approved by the commission within 30 60 days of execution if made in Iowa pursuant to subparagraph 5.4(8)“b”(4) or within 30 days of execution if not made in Iowa. Commission approval must be obtained prior to implementation, unless the qualifying agreement contains a written clause stating that the agreement is subject to commission approval and the qualifying agreement is submitted to commission staff prior to implementation. Qualifying agreements need only be submitted on initiation, unless there is a material change in terms or noncompliance with subparagraph 5.4(8)“b”(4) or to comply with numbered paragraph 5.4(8)“a”(1)“3.”

ITEM 6. Amend paragraph **5.4(12)“a”** as follows:

a. The holder of a license to operate gambling games and the holder of a license to accept simulcast wagering shall adopt and implement policies and procedures designed to:

(1) No change.

(2) Comply with the process established by the commission to allow a person to be voluntarily excluded from the gaming floor of an excursion gambling boat, from the wagering area as defined in Iowa Code section 99D.2, from the sports wagering area as defined in Iowa Code section 99F.1(24), and

from the gaming floor of all other licensed facilities or gambling activities regulated under Iowa Code chapters 99D and 99F; ~~and~~

(3) Allow persons to be voluntarily excluded for five years or life from all facilities on a form prescribed by the commission. Each facility will disseminate information regarding the exclusion to all other licensees and the commission; and

(4) Identify the availability of technology on a device that provides electronic or mechanical access to cash or credit for a patron of the facility that would allow for a person to voluntarily bar the person's access to receive cash or credit from such devices located on the licensed premises and provide the process for a person to do so. Methods of identification shall be prominently displayed and be indicative of the availability of the process prior to a transaction taking place.

ITEM 7. Amend subparagraph **5.4(21)“a”(3)** as follows:

(3) Results from the network security risk assessment shall be submitted to the administrator no later than ~~90~~ 60 days after the assessment is completed. Results shall include a remediation plan to address any risks identified during the risk assessment.

ITEM 8. Rescind and reserve subrule **8.2(5)**.

ITEM 9. Amend subrule 8.2(13) as follows:

8.2(13) *Pools dependent upon betting interests.* Unless the administrator otherwise provides, at the time the pools are opened for wagering, the facility:

- a.* May offer win, place, and show wagering on all contests ~~with six or more betting interests.~~
- b. to g.* No change.
- h.* May prohibit superfecta and pentafecta wagering on any contest with seven or fewer betting interests scheduled to start.
- i. to l.* No change.

ITEM 10. Adopt the following new subrule 8.6(4):

8.6(4) *Records.* Licensees shall provide all information requested by the commission. Access to this information shall be immediate, and copies of the information shall be delivered within seven days or less as ordered or requested by the commission. The licensees shall ensure all books and records and the retention of all books and records comply with 491—subrule 5.4(14). All records pertaining to contests shall be available to allow for player complaint resolution. All records pertaining to the accounts of people who registered or have account activity in Iowa shall be available to allow for audits and investigations.

ITEM 11. Amend paragraph **10.5(4)“b”** as follows:

b. Prohibited areas. A jockey agent is prohibited from entering the jockey room, winner's circle, racing strip, paddock, or saddling enclosure during the hours of racing unless advance written permission has been granted from the stewards.

ITEM 12. Amend subrule 11.7(1) as follows:

11.7(1) Devices that determine or affect the outcome of wagers or are used in the collection of wagers on table games are subject to the requirements of rule 491—11.4(99F) and subrule 11.5(3). Additionally, software used in the conduct of table games is subject to the following requirements:

a. Removable storage media shall be sealed with tamper-evident tape by a commission representative prior to implementation.

b. Random number generators shall conform to the requirements of subrule 11.10(2); however, outcomes generated from the random number generator results may be dependent on previous outcomes in the following circumstances:

(1) When simulating live card games where cards used are not reused until the next hand is dealt, or until the multiplayer electronic device performs a shuffle of the simulated cards.

(2) When the random number generator is used in the award of a bonus outcome approved in accordance with subrule 11.5(3). Bonus outcomes that are statistically dependent must employ technology solutions to ensure that continuation from the last outcome is maintained in the event of any malfunction.

ITEM 13. Amend paragraph **12.16(2)“b”** as follows:

b. Methods of transfer or deposit into a player’s account shall be limited to currency transactions with a casino cashier, or transfers from a participating gaming machine or designated kiosk, unless otherwise approved by the commission. Direct transfers utilizing accounts with outside entities are permitted, ~~but transfers to a player’s wagering account shall not be allowed while a patron is on the designated gaming floor, as approved pursuant to 491—subrule 5.4(17).~~ Electronic wagering accounts shall not be funded with a credit card.

ITEM 14. Amend paragraph **13.2(6)“d”** as follows:

d. ~~The~~ On a form provided by the commission, the controller or an employee of higher authority shall file a monthly attestation to the commission that the reserve funds have been safeguarded pursuant to this subrule. The attestation shall be provided to the commission no later than 15 days after the end of each month.

ITEM 15. Amend subrule 13.2(7) as follows:

13.2(7) Internal controls. Licensees and advance deposit sports wagering operators shall submit a description of internal controls to the administrator. The submission shall be made at least 30 days before sports operations are to commence unless otherwise approved by the administrator. All internal controls must be approved by the administrator prior to commencement of sports operations. The operator shall submit to the administrator any changes to the internal controls previously approved at least 15 days before the changes are to become effective unless otherwise directed by the administrator. It shall be the affirmative responsibility and continuing duty of each licensee and advance deposit sports wagering operator and their employees to follow and comply with all internal controls. The submission shall include controls and reasonable methods that provide for the following:

a. to c. No change.

d. To promptly report to the commission, in a format approved by the administrator, any abnormal wagering activity or patterns that may indicate a concern about the integrity of an authorized sporting event or events, and any other conduct with the potential to corrupt a wagering outcome of an authorized sporting event for purposes of financial gain, including but not limited to match fixing, and suspicious or illegal wagering activities, including the use of funds derived from illegal activity, wagers to conceal or launder funds derived from illegal activity, use of agents to place wagers, or use of false identification. Integrity-monitoring procedures shall also provide for the sharing of information with other licensees, other governing authorities, and accredited sports governing entities by participating in an integrity-monitoring association or group or by another method as approved by the administrator.

e. Written notification to the commission for any incident where there is a violation involving criminal activity, Iowa Code chapter 99F, a commission rule or order, or an internal control within 72 hours of detection. The licensee or advance deposit sports wagering operator shall provide a written report detailing the violation as required by and in a format approved by the administrator.

f. to i. No change.

ITEM 16. Amend subrule 13.2(8) as follows:

13.2(8) Revenue reporting. Reports generated from the sports wagering system shall be made available as determined by the commission. The reporting system shall be capable of issuing reports by wagering day, wagering month, and wagering year. Wagering data shall not be purged unless approved by the commission. The reporting system shall provide for a mechanism to export the data for the purposes of data analysis and auditing or verification. The reporting system shall be able to provide, at a minimum, the following sports wagering information:

a. to j. No change.

k. The date, time, stake amount, win amount and individual associated with each event where winnings are required to be reported on Internal Revenue Service form W-2G, as recorded by the reporting system.

ITEM 17. Adopt the following **new** subrule 13.2(13):

13.2(13) Records. Licensees shall provide all information requested by the commission. Access to this information shall be immediate, and copies of the information shall be delivered within seven days or less as ordered or requested by the commission. The licensees shall ensure all books and records and the retention of all books and records comply with 491—subrule 5.4(14). All records pertaining to contests shall be available to allow for player complaint resolution. All records pertaining to the accounts of people who registered or have account activity in Iowa shall be available to allow for audits and investigations.

ITEM 18. Amend subrule 13.5(2), introductory paragraph, as follows:

13.5(2) Account registration. A person must have an established account in order to place advance deposit sports wagers. The process for establishing an account is subject to the administrator's approval. ~~Prior to January 1, 2021, an account shall be established at the facility as required by Iowa Code section 99F.9(4). On or after January 1, 2021, an~~ An account may be established through on-site registration under procedures previously approved by the administrator, or through remote registration. To establish an account, an application for an account shall be signed or otherwise authorized in a manner approved by the administrator and shall include the applicant's full legal name, principal residential address, date of birth, and any other information required by the administrator. The account registration process shall also include:

ITEM 19. Amend paragraph **13.5(3)“g”** as follows:

g. Process to immediately notify a player following an unusual login attempt. In the event that the unusual login attempt constitutes suspicious activity or if other suspicious activity is detected, an account shall be locked. A multifactor authentication process must be employed for the account to be unlocked.

ITEM 20. Amend paragraph **13.5(4)“h”** as follows:

h. ~~An~~ If the method of reserve utilized to comply with subrule 13.2(6) is not in the form of cash or cash equivalents segregated from operational funds, an advance deposit sports wagering operator or licensee shall segregate player account funds from operational funds.

ITEM 21. Amend subrule 13.6(2) as follows:

13.6(2) Change control. The licensees and advance deposit sports wagering operators shall submit change control processes that detail evaluation procedures for all updates and changes to equipment and systems to the administrator for approval at least 30 days prior to operation. ~~These processes shall include details for identifying criticality of updates and determining of submission of updates to an independent testing laboratory for review and certification.~~ These processes shall include, at a minimum, descriptions of the following areas of licensee operations:

- a. Process to classify all changes according to organizational risk.
- b. Process to designate whether changes must be submitted to an independent testing laboratory for review and certification.
- c. Process for emergency change determination and implementation.
- d. Process to log or note changes. Must include the details logged for each change, including but not limited to the following areas:
 - (1) Date and time of change or proposed date and time of change.
 - (2) Basic description of changes to be implemented.
 - (3) Change classification of change or changes, determined in accordance with the process established by paragraph 13.6(2)“a.” If emergency designation is separate from other change classifications, this shall also be included in the log or note.
 - (4) Identification of whether a change was submitted to an independent testing laboratory, and the certification report number of any testing.
- e. Process to maintain logs or notify the commission of changes.

ITEM 22. Amend subparagraph **13.6(3)“a”(3)** as follows:

(3) Results from the risk assessment shall be submitted to the administrator no later than ~~30~~ 60 days after the assessment is completed. Results shall include a remediation plan to address any risks identified during the risk assessment.

ITEM 23. Amend rule ~~491—14.1(99E)~~, definition of “Fantasy sports contest,” as follows:

“*Fantasy sports contest*” or “*contest*” means a fantasy or simulated game or contest in which:

1. to 4. No change.

5. No winning outcome is solely based on the score, point spread, or any performance or performances of any single actual team or solely on any single performance of an individual athlete or player in any single actual event. ~~However, until May 1, 2020, “fantasy sports contest” does not include any fantasy or simulated game or contest in which any winning outcomes are based on statistical results from a collegiate sporting event as defined in Iowa Code section 99F.1.~~

ITEM 24. Amend subrule 14.8(2) as follows:

14.8(2) Records. Licensees shall provide all information requested by the commission. Access to this information shall be immediate, and copies of the information shall be delivered within seven days or less as ordered or requested by the commission. The licensees shall ensure all books and records and ~~their~~ the retention of all books and records comply with 491—subrule 5.4(14). All records pertaining to contests shall be available to allow for player complaint resolution. All records pertaining to the accounts of people who registered or have account activity in Iowa shall be available to allow for audits and investigations.

ITEM 25. Amend subparagraph **14.8(4)“c”(1)** as follows:

(1) A system integrity and security risk assessment shall be performed annually on the fantasy sports contest system.

1. and 2. No change.

3. Results from the risk assessment shall be submitted to the administrator no later than ~~30~~ 60 days after the assessment is completed.

4. and 5. No change.

ITEM 26. Amend subrule 14.9(2) as follows:

14.9(2) Licensees are required to comply with and ensure the following:

a. to *d.* No change.

e. Contests are not offered based on the performance of participants in high school or youth sports events. ~~However, until May 1, 2020, “fantasy sports contest” does not include any fantasy or simulated game or contest in which any winning outcomes are based on statistical results from a collegiate sporting event as defined in Iowa Code section 99E.1.~~

f. to *k.* No change.