

491—5.4(99D,99F) Uniform requirements.

5.4(1) *Maintenance of premises and facilities.* Each licensee shall at all times maintain its premises and facilities so as to be neat and clean, well landscaped, painted and in good repair, handicapped accessible, with special consideration for the comfort and safety of patrons, employees, and other persons whose business requires their attendance.

5.4(2) *Facilities for commission.* Each licensee shall provide reasonable, adequately furnished office space, including utilities, direct long-distance access for voice and data lines, custodial services, and necessary office equipment, and, if applicable, work space on the boat for the exclusive use of the commission employees and officials. The licensee shall also make available appropriate parking places for commission staff.

5.4(3) *Sanitary facilities for patrons.* Each licensee shall, on every day of operation, provide adequate and sanitary toilets and washrooms and furnish free drinking water for patrons and persons having business on the licensee's premises.

5.4(4) *First-aid room.*

a. During all hours of operation, each licensee shall equip and maintain adequate first-aid facilities and have, at a minimum, one employee trained in CPR, first aid, and the use of the automated external defibrillator (AED). During live racing at horse racetracks and while excursion gambling boats are cruising, the licensee shall have present either a physician, a physician assistant, a registered nurse, a licensed practical nurse, a paramedic, or an emergency medical technician.

b. All individuals specified under paragraph 5.4(4)“*a*” must be currently licensed or certified, including active status, in accordance with the requirements of the Iowa department of public health.

c. Each licensee is required to have a properly functioning and readily accessible AED at the licensee's facility.

5.4(5) *Security force.*

a. Peace officer. Each licensee shall ensure that a person who is a certified peace officer is present as outlined in the facility's security plan approved by the commission. A certified peace officer pursuant to this rule must be employed by a law enforcement agency and have police powers.

b. Employ adequate security. Each licensee shall employ sufficient security to remove from the licensed premises a person violating a provision of Iowa Code chapter 99D or 99F, commission rules, or orders; any person deemed to be undesirable by racing and gaming commission officials; or any person engaging in a fraudulent practice. Security shall also be provided in and about the premises to secure restricted areas including, but not limited to, the barn area, kennel area, paddock, and racing animal drug testing area.

c. Incident reports. The licensee shall be required to file a written report, within 72 hours, detailing any incident in which an employee or patron is detected violating a provision of Iowa Code chapter 99D or 99F, a commission rule or order, or internal controls; or is removed for reasons specified under paragraph 5.4(5)“*b*.” In addition to the written report, the licensee shall provide immediate notification to the commission and DCI representatives on duty or, if representatives are not on duty, provide notification on each office's messaging system if the incident involved employee theft, criminal activity, Iowa Code chapter 99D or 99F violations, or gaming receipts.

d. Ejection or exclusion. A licensee may eject or exclude any person, licensed or unlicensed, from the premises or a part thereof of the licensee's facility, solely of the licensee's own volition and without any reason or excuse given, provided ejection or exclusion is not founded on constitutionally protected grounds such as race, creed, color, disability, or national origin.

Reports of all ejections or exclusions for any reason, other than voluntary exclusions, shall be made promptly to the commission representative and DCI and shall state the circumstances. The name of the person must be reported when the person is ejected or excluded for more than one gaming day.

The commission may exclude any person ejected by a licensee from any or all pari-mutuel facilities, gambling structures, or excursion gambling boats controlled by any licensee upon a finding that attendance of the person would be adverse to the public interest.

5.4(6) *Firearms possession within licensed facility.*

a. No patron or employee of the licensee, including the security department members, shall possess or be permitted to possess any pistol or firearm within a licensed facility without the express written approval of the administrator unless:

- (1) The person is a peace officer, on duty, acting in the peace officer's official capacity; or
- (2) The person is a peace officer possessing a valid peace officer permit to carry weapons who is employed by the licensee and who is authorized by the administrator to possess such pistol or firearm while acting on behalf of the licensee within that licensed facility.

b. Each licensee shall post in a conspicuous location at each entrance a sign that may be easily read stating, "Possession of any firearm within the licensed facility without the express written permission of the Iowa racing and gaming commission is prohibited".

5.4(7) *Video recording.* Licensees shall conduct continuous surveillance with the capability of video recording all gambling activities under Iowa administrative rules 661—Chapter 141, promulgated by the department of public safety.

a. "Gambling activities" means participating in or wagering on gambling games on the gaming floor; the movement, storage, and handling of uncounted gambling revenues; manual exchange of moneys for forms of wagering credit on the gaming floor; entrance of the public onto the gaming floor; and any other activity as determined by the commission administrator or administrator's designee.

b. Commission and DCI representatives shall have unrestricted access to and use of, including independent access capabilities, both live and recorded views and images of the surveillance system.

c. A commission representative may allow a gambling game to be placed in operation pending approval under 661—Chapter 141.

d. A surveillance department shall develop a standard operating procedure manual, which shall include surveillance system maintenance and emergency plans. This manual shall be made available for inspection by the commission and DCI.

e. A facility may include capabilities within the surveillance system for video recording of other areas of a facility and grounds, provided that commission and DCI access is unrestricted.

5.4(8) *Commission approval of contracts and business arrangements.*

a. Qualifying agreements.

(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) are exempt from submission to and approval by the commission. For the purpose of this subrule, a qualifying agreement shall be limited to:

1. Any obligation that expends, encumbers, or loans facility assets to anyone other than a not-for-profit entity, a unit of government for the payment of taxes, or an entity that provides water, sewer, gas or electric utility services to the facility.

2. Any disposal of facility assets or provision of goods and services at less than market value to anyone other than a not-for-profit entity or a unit of government.

3. A previously approved qualifying agreement, if consideration exceeds the approved amount in a calendar year by the greater of \$100,000 or 25 percent or if the commission approval date of an ongoing contract is more than five years old.

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 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.

(2) A debt transaction greater than \$3 million entered into by a licensee or licensee's parent company assigning an obligation to a licensee, except a debt transaction previously approved in subrule 5.4(20), is subject to commission jurisdiction. The request for approval shall include:

1. The names and addresses of all parties;

2. The amount and source of funds;
3. The nature and amount of security and collateral provided;
4. The specific nature and purpose of the transaction; and
5. The term sheet or executive summary of the transaction.

(3) A qualifying agreement must be submitted within 30 days of execution. 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. Qualifying agreements need only be submitted on initiation, unless there is a material change in terms or noncompliance with 5.4(8) “b”(4) or to comply with 5.4(8) “a”(1)“3.”

b. Purpose of review. The commission conducts reviews to serve the public interest to ensure that:

- (1) Gaming is free from criminal and corruptive elements.
- (2) Gaming-related funds are directed to the lawful recipient.
- (3) Gaming profits are not improperly distributed.

(4) Iowa resources, goods and services are utilized. Resources, goods, and services shall be considered to be made in Iowa, be provided by Iowans, or emanate from Iowa if one or more of the following apply:

1. Goods are manufactured in Iowa.
2. Goods are distributed through a distributor located in Iowa.
3. Goods are sold by a retailer/wholesaler located in Iowa.
4. Resources are produced or processed in Iowa.
5. Services are provided by a vendor whose headquarters/home office is in Iowa.
6. Goods, resources or services are provided by a vendor whose headquarters/home office is located outside Iowa, but which has a tangible business location (not simply a post office box) and does business in Iowa.
7. Services beyond selling are provided by employees who are based in Iowa.

A facility shall be considered to have utilized a substantial amount of Iowa resources, goods, services and entertainment in compliance with Iowa Code sections 99D.9 and 99F.7(4) if the facility demonstrates to the satisfaction of the commission that preference was given to the extent allowed by law and other competitive factors.

c. Related parties. Other submittal requirements notwithstanding, agreements negotiated between the facility and a related party must be accompanied by an economic and qualitative justification. For the purpose of this subrule, related party shall mean any one of the following having any beneficial interest in any other party with whom the facility is seeking to negotiate an agreement:

- (1) Any corporate officer or member of a facility’s board of directors.
- (2) Any owner with more than a 5 percent interest in a facility.
- (3) A member of either the qualified sponsoring organization or the qualifying organization under Iowa Code section 99D.8 associated with a facility.

d. Review criteria. The commission shall approve all qualifying agreements that, in the commission’s sole opinion, represent a normal business transaction and may impose conditions on an approval. The commission may deny approval of any agreement that, in the commission’s sole opinion, represents a distribution of profits that differs from commission-approved ownership and beneficial interest. This subrule does not prohibit the commission from changing the approved ownership or beneficial interest.

5.4(9) Checks. All checks accepted must be deposited in a bank by the close of the banking day following acceptance.

5.4(10) Taxes and fees.

a. Annual taxes and fees. All taxes and fees, whose collection by the state is authorized under Iowa Code chapters 99D and 99F, shall be accounted for on a fiscal-year basis, each fiscal year beginning on July 1 and ending on June 30.

b. Submission of taxes and fees.

(1) All moneys collected for and owed to the commission or state of Iowa under Iowa Code chapter 99F shall be accounted for and itemized on a weekly basis in a format approved by the commission.

Each day on the report shall be an accurate representation of the gaming activities. A week shall begin on Monday and end on Sunday.

(2) The reporting form must be received in the commission office by noon on Wednesday following the week's end. The moneys owed, according to the reporting form, must be received in the treasurer's office by 11 a.m. on the Thursday following the week's end.

(3) Pursuant to Iowa Code section 99F.1(1), taxes from promotional play receipts that are received within the same gaming week but after the date when the limit set forth in the definition of "adjusted gross receipts" is exceeded, as determined by the administrator, will be credited to each facility in the next available gaming week within the same fiscal year.

c. Calculation of promotional play receipts. For the purpose of calculating the amount of taxes received from promotional play receipts during a fiscal year, the commission will consider promotional play receipts as taxed in proportion to total adjusted gross receipts for each gaming day.

5.4(11) Rate of tax revenue. Each licensee shall prominently display at the licensee's gambling facility the annual percentage rate of state and local tax revenue collected by state and local government from the gambling facility annually.

5.4(12) Problem gambling.

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) Identify problem gamblers;
- (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, 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.

b. The policies and procedures shall be developed in cooperation with the gambling treatment program and shall include without limitation the following:

- (1) Training of key employees to identify and report suspected problem gamblers;
- (2) Procedures for recording and tracking identified problem gamblers;
- (3) Policies designed to prevent serving alcohol to intoxicated casino patrons;
- (4) Steps for removing problem gamblers from the casino; and
- (5) Procedures for preventing reentry of problem gamblers.

c. A licensee shall include information on the availability of the gambling treatment program in a substantial number of its advertisements and printed materials.

d. Money forfeited by a voluntarily excluded person pursuant to Iowa Code sections 99D.7(23) and 99F.4(22) shall be withheld by the licensee and remitted to the general fund of the state by the licensee.

5.4(13) Records regarding ownership.

a. In addition to other records and information required by these rules, each licensee shall maintain the following records regarding the equity structure and owners:

- (1) If a corporation:
 1. A certified copy of articles of incorporation and any amendments thereto.
 2. A copy of bylaws and amendments thereto.
 3. A current list of officers and directors.
 4. Minutes of all meetings of stockholders and directors.
 5. A current list of all stockholders and stockholders of affiliates, including their names and the names of beneficial shareholders.
 6. A complete record of all transfers of stock.
 7. A record of amounts paid to the corporation for issuance of stock and other capital contributions and dates thereof.
 8. A record, by stockholder, of all dividends distributed by the corporation.

9. A record of all salaries, wages, and other remuneration (including perquisites), direct and indirect, paid by the corporation during the calendar or fiscal year to all officers, directors, and stockholders with an ownership interest at any time during the calendar or fiscal year, equal to or greater than 5 percent of the outstanding stock of any class of stock.

(2) If a partnership:

1. A schedule showing the amounts and dates of capital contributions, the names and addresses of the contributors, and percentage of interest in net assets, profits, and losses held by each.

2. A record of the withdrawals of partnership funds or assets.

3. A record of salaries, wages, and other remuneration (including perquisites), direct and indirect, paid to each partner during the calendar or fiscal year.

4. A copy of the partnership agreement and certificate of limited partnership, if applicable.

(3) If a sole proprietorship:

1. A schedule showing the name and address of the proprietor and the amount and date of the original investment.

2. A record of dates and amounts of subsequent additions to the original investment and withdrawals therefrom.

3. A record of salaries, wages, and other remuneration (including perquisites), direct or indirect, paid to the proprietor during the calendar or fiscal year.

b. All records regarding ownership shall be located in a place approved by the commission.

c. If the licensee is publicly held, upon the request of the administrator, the licensee shall submit to the commission one copy of any report required to be filed by such licensee or affiliates with the Securities and Exchange Commission or other domestic or foreign securities regulatory agency. If the licensee is privately held, upon the request of the administrator, the licensee shall submit financial, ownership, or other entity records for an affiliate.

5.4(14) Retention, storage, and destruction of books, records, and documents.

a. Except as otherwise provided, all original books, records, and documents pertaining to the licensee's operations shall be:

(1) Prepared and maintained in a complete and accurate form.

(2) Retained at a site approved by the administrator until audited.

(3) Held immediately available for inspection by the commission during business hours of operations.

(4) Organized and indexed in such a manner as to provide immediate accessibility to the commission.

b. For the purpose of this subrule, "books, records, and documents" shall be defined as any book, record, or document pertaining to or prepared or generated by the licensee including, but not limited to, all forms, reports, accounting records, ledgers, subsidiary records, computer-generated data, internal audit records, correspondence, contracts, and personnel records, including information concerning a refusal to submit to drug testing and test results conducted pursuant to Iowa Code section 730.5.

c. All original books, records, and documents may be copied and stored on microfilm, microfiche, or other suitable media system approved by the administrator.

d. No original book, record, document, or suitable media copy may be destroyed by a licensee, for three years, without the prior approval of the administrator.

5.4(15) Remodeling. For any construction that changes the specific function of a public space of the facility, the licensee must first submit plans to and receive the approval of the administrator.

5.4(16) Officers, agents, and employees. Licensees are accountable for the conduct of their officers, agents, and employees. The commission or commission representative reserves the right to impose penalties against the license holder or its officer, agent, employee, or both as the commission or commission representative determines appropriate. In addition, the licensee shall be responsible for the conduct of nonlicensed persons in nonpublic areas of the excursion gambling boat, gambling structure, or racetrack enclosure.

5.4(17) Designated gaming floor. The designated gaming floor is all areas occupied by or accessible from a gambling game, not otherwise obstructed by a wall, door, partition, barrier, or patron entrance.

A patron entrance shall be identified by a sign visible to patrons approaching the gaming floor. The sign shall denote entrance to the gaming floor and specify that the gaming floor is not accessible to persons under the age of 21. A floor plan identifying the area shall be filed with the administrator for review and approval. Modification to a previously approved plan must be submitted for approval at least ten days prior to implementation.

5.4(18) State fire and building codes.

a. Barges, as defined in 5.6(1)“c,” and other land-based gaming facilities and such facilities that undergo major renovation shall comply with the state building code created by Iowa Code chapter 103A, if there is no local building code in force in the local jurisdiction in which the facility is located. A licensee shall submit construction documents and plans to the state building code commissioner and receive approval prior to construction, if a facility is subject to the state building code.

b. If there is no enforcement of fire safety requirements by a local fire department, a licensee shall also submit construction plans and documents to the state fire marshal and receive approval prior to construction. The fire marshal may cause a facility subject to this paragraph to be inspected for compliance with fire marshal rules prior to operation of the facility and shall notify the commission and the licensee of the results of any such inspection.

c. If a proposed new or renovated facility is subject to both paragraphs “a” and “b,” a single submission of construction plans and documents to the building code commissioner, with a cover letter stating that review and approval are required with respect to both the state building code and rules of the fire marshal, is sufficient to meet both requirements. Facilities subject to both paragraphs “a” and “b” shall have received approval from both the fire marshal and the building code commissioner prior to construction.

5.4(19) Gambling setoff. Each licensee shall adopt and implement policies and procedures designed to set off winnings of patrons who have a valid lien established under Iowa Code chapters 99D and 99F.

5.4(20) Shelf application for debt.

a. The commission may grant approval of a shelf application for a period not to exceed three years.

b. Licensees whose parent company has issued publicly traded debt or publicly traded securities may apply to the commission for a shelf approval of debt transactions if the parent company has:

(1) A class of securities listed on the New York Stock Exchange, the American Stock Exchange or the National Association of Securities Dealers Automatic Quotation System (NASDAQ) or has stockholders’ equity in the amount of \$15 million or more as reported in the parent company’s most recent report on Form 10-K or Form 10-Q filed with the Securities and Exchange Commission (SEC) immediately preceding application; and

(2) Filed all reports required by the SEC.

c. The application shall be in writing and shall contain:

(1) Proof of qualification to make the application in accordance with the criteria of this subrule.

(2) A statement of the amount of debt sought to be approved and the intended use of potential proceeds.

(3) Duration sought for the shelf approval.

(4) Financing rate sought during shelf approval.

(5) Evidence of signature by authorized representative of the licensee under oath.

(6) Other supplemental documentation requested by the commission or commission representative following the initial submission.

d. Once an application is approved by the commission:

(1) The licensee shall notify the commission representative of all debt transactions within ten days of consummation, including subsequent amendments and modifications of debt transactions, and provide executed copies of the documents evidencing the transactions as may be required.

(2) The commission representative may rescind a shelf approval without prior written notice. The rescission shall be in writing and set forth the reasons for the rescission and shall remain in effect until lifted by the commission upon the satisfaction of any such terms and conditions as required by the commission.

5.4(21) Network security.

a. The licensee shall biennially submit the results of an independent network security risk assessment to the administrator for review, subject to the following requirements:

(1) The testing organization must be independent of the licensee and shall be qualified by the administrator.

(2) The network security risk assessment shall be conducted no later than 90 days after the start of the licensee's fiscal year in each year an assessment is required.

(3) Results from the network security risk assessment shall be submitted to the administrator no later than 90 days after the assessment is conducted.

b. At the discretion of the administrator, additional network security risk assessments may be required.

[**ARC 8029B**, IAB 8/12/09, effective 9/16/09; **ARC 9018B**, IAB 8/25/10, effective 9/29/10; **ARC 0734C**, IAB 5/15/13, effective 6/19/13; **ARC 1456C**, IAB 5/14/14, effective 6/18/14; **ARC 1506C**, IAB 6/25/14, effective 7/30/14; **ARC 1876C**, IAB 2/18/15, effective 3/25/15; **ARC 2468C**, IAB 3/30/16, effective 5/4/16; **ARC 2795C**, IAB 11/9/16, effective 12/14/16; **ARC 2927C**, IAB 2/1/17, effective 3/8/17; **ARC 3446C**, IAB 11/8/17, effective 12/13/17; **ARC 3608C**, IAB 1/31/18, effective 3/7/18; **ARC 4194C**, IAB 12/19/18, effective 1/23/19]