

<h1>Regulatory Analysis Form</h1> <p>(Completed by Promulgating Agency)</p> <p><i>(All Comments submitted on this regulation will appear on IRRC's website)</i></p>		<p>INDEPENDENT REGULATORY REVIEW COMMISSION</p> <p>MAR 23 2021</p> <p>Independent Regulatory Review Commission</p>
<p>(1) Agency Pennsylvania Gaming Control Board</p>		
<p>(2) Agency Number: 125 Identification Number: 226</p>		<p>IRRC Number: 3248</p>
<p>(3) PA Code Cite: 58 Pa.Code §§ 1001a; 1201a – 1209a</p>		
<p>(4) Short Title: Casino Simulcasting; Fantasy Contests</p>		
<p>(5) Agency Contacts (List Telephone Number and Email Address):</p> <p>Primary Contact: Chad W. Zimmermann Assistant Chief Counsel Pennsylvania Gaming Control Board P.O. Box 69060 Harrisburg, PA 17101-8323 Phone: (717) 265-8356/ Fax: (717) 703-2988 Email: cwzimmerma@pa.gov</p> <p>Secondary Contact:</p>		
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input type="checkbox"/> Proposed Regulation <input checked="" type="checkbox"/> Final Regulation <input type="checkbox"/> Final Omitted Regulation</p>		<p><input type="checkbox"/> Emergency Certification Regulation; <input type="checkbox"/> Certification by the Governor <input type="checkbox"/> Certification by the Attorney General</p>
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p>This proposed rulemaking will provide Category 2, 3 and 4 casinos in this Commonwealth with the option to provide live simulcasting of horse racing and associated simulcast wagering as a gambling product in this Commonwealth and provides a regulatory oversight structure for the conduct of fantasy contests in this Commonwealth.</p>		
<p>(8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation.</p> <p>The Pennsylvania Gaming Control Board's general authority is in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. § 311 and § 13F06(a).</p>		

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

There are no other applicable federal or state statutes, regulations or court decisions that mandate adoption of this rulemaking.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

This rulemaking provides the regulatory framework for slot machine licensees to offer casino simulcasting of horse races at their casinos. These regulations are necessary to provide for the oversight of the simulcasting industry. Any of the nine currently licensed Category 2, 3, and 4 slot machine licensees that wish to offer casino simulcasting will stand to benefit from having regulations in place in order to facilitate a casino simulcasting facility at their casinos. Additionally, individuals who wish to wager on simulcast horse races at these facilities will benefit from the provisions protecting the integrity of the simulcast operations.

Also, this rulemaking provides the regulations pertaining to the oversight of fantasy contests. These regulations are necessary to regulate the fantasy contest industry to ensure a secure and consistent environment for players engaging in fantasy contests. Fantasy contest operators and individuals who participate in fantasy contests will benefit from the framework put in place that provides for all necessary protections for the integrity of fantasy contests in the Commonwealth. There are currently six licensed fantasy contest operators, and four fantasy contest operators with pending license applications.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no corresponding federal standards for any of these provisions in this rulemaking.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

This rulemaking should not negatively impact Pennsylvania's ability to compete with other states, as these regulations pertain only to casino simulcasting that may be done in Pennsylvania based licensed facilities. Casino Simulcasting is also available to patrons of casinos in New Jersey, and the Regulations can be found in Title 13, Chapter 69M. The procedures set forth in this final-form rulemaking are similar to the provisions in New Jersey's regulations, including the coordination between the NJDGE and NJ's Horse Racing Commission.

The same is true for fantasy contests. These regulations set forth the provisions for fantasy contests that are operated by licensed operators in the Commonwealth. For fantasy contests to be offered in Pennsylvania, the operator is required to be licensed by the Board. Individuals in Pennsylvania may only participate in fantasy contests offered by licensed operators, or at fantasy contest terminals in licensed facilities. Forty-two other states have enacted Fantasy Contest legislation and have the industry regulated within the state, similar in nature to Pennsylvania.

Seven states (Arizona, Hawaii, Idaho, Louisiana, Montana, Nevada, and Washington), currently do not offer allow Fantasy Contests within their borders, either due to an explicit law banning them, or a determination that they are illegal gambling.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This regulation will not affect any other regulations of the PGCB nor any other state agency.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The State Horse Racing Commission was consulted regarding the development and drafting of the temporary regulations that were the basis of this final-form rulemaking. The Commission also reviewed the proposed rulemaking and had no material issues with the provisions contained therein. No public comments were received on the proposed rulemaking.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

Any of the nine currently licensed Category 2, 3, or 4 slot machine licensee who wishes to offer casino simulcasting at a licensed facility will be required to comply with the provisions of Chapter 1001a. Individuals and business wishing to offer fantasy contests in the Commonwealth will be required to comply with the provisions of Chapters 1201a – 1209a to be licensed to operate. There are currently six licensed fantasy contest operators and four with pending applications. Casinos that operate in the Commonwealth of Pennsylvania are not small businesses as defined in the United States Small Business Administration's Small Business Size Regulations, under 13 C.F.R. Ch. 1 Part 121. It is believed that three of the currently licensed fantasy contests operators are not small business as defined in the United States Small Business Administration's Small Business Size Regulations, under 13 C.F.R. Ch. 1 Part 121, but three may be considered small businesses.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

Any of the nine currently licensed Category 2, 3, or 4 slot machine licensees that wish to offer casino simulcasting in their casino will be required to comply with the provisions of Chapter 1001a. Any entity that wishes to offer fantasy contests in the Commonwealth will be required to comply with the provisions of Chapters 1201a – 1209a, and there are currently six licensed fantasy contest operators, and four with pending applications

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

It is not anticipated that this rulemaking will have a negative financial, economic or social impact on the regulated community. The benefits of the regulations are that they create a safe, secure, and regulated industry in casino simulcasting and fantasy contests in the Commonwealth.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

This rulemaking will provide all necessary oversight for casino simulcasting and fantasy contests in the Commonwealth and provide a safe, secure, and regulated industry for these two forms of gaming. It is not anticipated there will be any adverse effects. The benefits of the industries being regulated outweigh any possible adverse effects.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

It is anticipated that there will be no additional long-term costs to the regulated community other than the initial costs of licensure.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

This rulemaking will have no fiscal impact on local governments.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The Board expects that this final-form rulemaking will have a very minimal fiscal impact on the Board and other Commonwealth agencies, which primarily is the result of the need for some additional personnel needed to process applications and review, as well as to monitor and regulate the conduct of fantasy contests. Most of the additional duties will be absorbed by existing Board staff. The costs of the final-form regulations will be paid for by an assessment against the licensed fantasy contest operators' fantasy contest adjusted revenue as determined by the Department of Revenue.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

Any Category 2, 3, or 4 slot machine licensee wishing to offer casino simulcasting or entity that wishes to offer fantasy contests in the Commonwealth will be required to first obtain authority to do so from the Board, in the form of a Petition and/or Application. Upon granting of approval to

operate, the entities are required to file internal controls that detail the operation of the entity as it pertains to casino simulcasting or fantasy contests.

(22a) Are forms required for implementation of the regulation?

Applications for licensure are required.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here.** If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

The applications for licensure are voluminous and therefore not attached, but all can be found under the Licensure tab at the Board's website: <https://gamingcontrolboard.pa.gov>.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Savings	\$0	\$0	\$0	\$0	\$0	\$0
COSTS:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Costs	\$0	\$0	\$0	\$0	\$0	\$0
REVENUE LOSSES:						
Regulated Community	\$0	\$0	\$0	\$0	\$0	\$0
Local Government	\$0	\$0	\$0	\$0	\$0	\$0
State Government	\$0	\$0	\$0	\$0	\$0	\$0
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY 2020/2021
PGCB Overall Budget	\$41,665,000	\$46,153,000	\$46,067,000	\$43,357,000

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

(a) An identification and estimate of the number of small businesses subject to the regulation.

Slot machine licensees that operate in the Commonwealth of Pennsylvania and entities offering fantasy contests will be impacted by this rulemaking; however, in accordance with the United States Small Business Administration's Small Business Size Regulations, under 13 CFR Ch. 1 Part 121, none of the casinos or entities qualify as a small business. While some of the fantasy contest operators may be small business, it is not anticipated the regulations will have any adverse effect on them.

(b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.

It is not anticipated that there will be any significant reporting, recordkeeping or other administrative costs associated with this regulation.

(c) A statement of probable effect on impacted small businesses.

As stated above, none of the operational slot machine licensees are small businesses, and it is not anticipated there will be an adverse effect on fantasy contest operators that are small businesses.

(d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

There are no less instructive or less costly alternative methods of achieving the purpose of this rulemaking.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

No special provisions have been added.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No alternative regulatory approaches were considered. This regulation reflects the least burdensome means of maintaining regulatory oversight of these activity.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

As stated above, there is no adverse impact on small businesses in the Commonwealth.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

There is no data, as defined under section (3) of the Regulatory Review Act (71 P.S. § 745.3), upon which this rulemaking is based.

(29) Include a schedule for review of the regulation including:

- | | |
|---|-------------------------------|
| A. The length of the public comment period: | 30 days |
| B. The date or dates on which any public meetings or hearings will be held: | Held March 17, 2021 |
| C. The expected date of delivery of the final-form regulation: | March 2021 |
| D. The expected effective date of the final-form regulation: | Upon final publication |
| E. The expected date by which compliance with the final-form regulation will be required: | Upon final publication |

F. The expected date by which required permits, licenses or other approvals must be obtained:

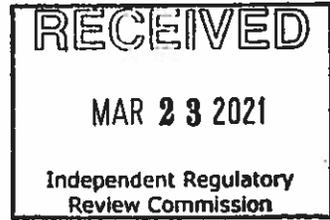
Ongoing

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

No formal review schedule has been established. Instead, the Board consistently reviews its regulations and proposes amendments as the need arises.

CDL-1

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)



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<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>BY: _____ (DEPUTY ATTORNEY GENERAL)</p> <p>_____</p> <p>DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is here by certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p>Pennsylvania Gaming Control Board</p> <p>Fiscal Note No. 125-226</p> <p>Date of Adoption: March 17, 2021</p> <p>By:  David M. Barasch, Chairman</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY:  R. Douglas Sherman, Chief Counsel</p> <p>Date of Approval: March 17, 2021</p> <p>(Chief Counsel, Independent Agency) (Strike Inapplicable title)</p> <p>Check if applicable. No Attorney General approval or objection within 30 days after submission.</p> <p><input type="checkbox"/></p>
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FINAL FORM RULEMAKING
COMMONWEALTH OF PENNSYLVANIA

58 PA. CODE
Final Form Rulemaking

Subpart M. Chapter 1001a

Subpart O. Chapters 1201a-1209a

FINAL-FORM RULEMAKING 125-226
PENNSYLVANIA GAMING CONTROL BOARD
58 PA. CODE CH. 1001a; 1201a - 1209a
Casino Simulcasting; Fantasy Contests

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. § 311 and § 13F06(a), promulgates final-form regulations governing casino simulcasting and fantasy contests to read as set forth in Annex A.

Purpose of the Final-Form Rulemaking

This final-form rulemaking will provide Category 2, 3 and 4 casinos in this Commonwealth with the option to provide live simulcasting of horse racing and associated simulcast wagering as a gambling product in this Commonwealth. Additionally, this rulemaking provides a regulatory oversight structure for the conduct of fantasy contests in this Commonwealth.

Explanation

Chapter 1001a. Casino Simulcasting

Section 1001a.1 (relating to definitions) provides the relevant definitions used throughout Chapter 1001a (relating to casino simulcasting) for the conduct of casino simulcasting.

Section 1001a.2 (relating to general requirements) establishes the general requirements a Category 2, 3 or 4 casino licensee shall fulfill to obtain a casino simulcasting permit including submitting an application for a casino simulcasting permit and providing supplemental information as requested by the Board. Sections 1001a.3 and 1001a.4 (relating to preliminary application submission review; and application processing) provide for a preliminary review of the application and processing by Board staff. Section 1001a.5 (relating to deficient applications) deals with deficient applications. Section 1001a.6 (relating to application withdrawal) provides how an applicant withdraws an application from consideration.

Section 1001a.7 (relating to casino simulcasting permit issuance and statement of conditions) establishes the criteria for the Board's issuance of a casino simulcasting permit upon a finding that the applicant fulfills each condition set by the Board and 4 Pa.C.S. Part II (relating to Pennsylvania Race Horse Development and Gaming Act), is found suitably consistent with

the laws of the Commonwealth and is otherwise qualified to be issued the casino simulcasting permit.

Section 1001a.8 (relating to license, registration or permitting of employees) provides for the licensing, registration or permitting of persons employed by the licensed gaming entity or licensed racing entity engaged directly in wagering-related activities at a simulcast facility.

Section 1001a.9 (relating to casino simulcasting agreements) establishes a requirement that agreements between licensed gaming entities and licensed racing entities to facilitate casino simulcasting shall be approved by the Board and the State Horse Racing Commission (Commission), and prescribes requirements for each agreement which must be present for the agreement to be effective.

Sections 1001a.10-1001a.18 provide the requirements for a casino simulcasting facility, permissible hours of operation, mandate compliance with rules of the Commission, permissible areas of wagering and wagering prohibitions, forfeiture, signage requirements restricted areas, and transmissions and displays of live races.

Sections 1001a.19 and 1001a.20 (relating to casino simulcasting accounting controls and audit protocols; and casino simulcasting record retention) address casino simulcasting accounting controls and audit protocols as well as record retention. These latter provisions provide assurances of mechanisms to audit and assure proper payments of taxes, and fairness of wagering and patron dispute resolution.

Subpart O. Fantasy Contests

Subpart O (relating to fantasy contests) establishes the regulations necessary for the Board to license fantasy contest operators who make fantasy contests available through an Internet connection and through fantasy contest terminals in licensed gaming facilities, as well as of the principals and key employees of the licensed operators. In addition, Subpart O provides rules for player accounts, licensed operator duties and restrictions, and accounting and internal controls governing the conduct of fantasy contests. Finally, Subpart O addresses advertising, compulsive and problem gambling, and self-exclusion of players from fantasy contest activities in this Commonwealth.

Subpart O establishes a broad regulatory oversight structure for fantasy contests. Section 1201a.2 (relating to definitions) provides definitions of terms used throughout Subpart O for the conduct of fantasy contests.

This final-form rulemaking establishes the categories of licensees based upon the statutory criteria for licensure in 4 Pa.C.S. §§ 301-342 (relating to fantasy contests). Categories subject to licensure include fantasy contest operators and their principals and key employees, as well as licensed gaming entities which elect to receive a fantasy contest license permitting them to operate fantasy contest terminals within the facility and gaming service providers.

Chapter 1202a (relating to application requirements) establishes the application and general requirements under which fantasy contest operators, licensed gaming entities, principals, key employees and gaming service providers shall apply to the Board for approval to participate in the regulated conduct of fantasy contests.

Chapter 1203a (relating to application process) provides for a preliminary review of the application, the processing of applications by Board staff, deficient applications, avenues for withdrawing an application from consideration, the terms and renewal periods for licenses and the registration of licensed entity representatives with the Board.

Chapter 1204a (relating to fantasy contest licenses) addresses the issuance of the fantasy contest license and the conditions placed thereon. Section 1204a.2 (relating to licensed fantasy contest operator change of ownership or control) was added to this Chapter in the final form rulemaking. The provisions of this added section provide the necessary steps that must be taken when a change in ownership or control of a licensed fantasy contest operator is contemplated. This added section and its requirements are consistent with the provisions of Section 327 of the Act (relating to change in ownership or control of licensed operators) and prior Board practice.

Sections 1205a.1 and 1205a.2 (relating to fantasy contests generally; and procedures to govern the conduct of fantasy contests) address the requirements for a fantasy contest and the procedures by which fantasy contests shall be operated. Section 1205.3 (relating to fantasy contest accounts) sets forth the requirements for player fantasy contest accounts assuring age, location and identity verifications, funding of player accounts, password access, account options to restrict or limit play as elected by the player, and account withdrawal and closing procedures.

Section 1205a.4 (relating to fantasy contest licensed operator duties) imposes affirmative duties on fantasy contest operators to ensure compliance with statutory and regulatory

mandates designed to assure integrity of the fantasy contests as well as safeguarding of player's information and assets. Section 1205a.5 (relating to fantasy contest licensed operator restrictions) sets forth restrictions on fantasy contest operations which provide a minimum age for players, limit the sports which can form the basis of fantasy contests, fulfill requirements that a player have established a verified account prior to play, prohibit the issuance of credit to a player and impose a host of restrictions designed to promote fairness in the play of fantasy contests. Section 1205a.6 (relating to licensed gaming entities) provides for licensed gaming entities to obtain fantasy contest terminals if desired. Section 1205a.7 (relating to record and data retention) addresses record and data retention requirements designed to enhance auditing and accountability.

Chapter 1206a (relating to accounting and internal controls) addresses the accounting and internal control requirements for fantasy contest operators. Chapter 1206a requires submission to the Board and approval prior to beginning of play.

Chapter 1207a (relating to advertising) addresses advertising of fantasy contests and provides standards to prohibit false or misleading advertising, portraying minors in the advertisements, representing endorsements by sports prohibited from forming the basis of fantasy contest and marketing to persons on the self-exclusion list.

Chapter 1208a (relating to compulsive and problem gaming) requires signage providing information sources for those experiencing compulsive or problem gaming.

Chapter 1209a (relating to fantasy contest self-exclusion) establishes a self-exclusion procedure for individuals who voluntarily seek to be prohibited from playing fantasy contests. The provisions have been amended to conform with the Board's changes to the self-exclusion process done in Chapter 503a of the Board's regulations.

Response to Comments

The Board did not receive any public comments from the regulated community or the general public. Comments were received from the Independent Regulatory Review Commission (IRRC), and responses to the comments are below:

1. Implementation procedures; Protection of the public health, safety and welfare.

The Board acted with all possible due diligence in getting the final-form regulations promulgated for casino simulcasting and fantasy contests. After the passage of Act 42 of 2017, the Board was tasked with promulgating regulations for five separate forms of expanded gaming in rapid succession. In December 2020, Governor Tom Wolf signed Act 114 of 2020, making amendments to the Fiscal Code of the Commonwealth. Act 114 on 2020 included a provision that extended the expiration date of temporary regulations of the Board from two years after publication to three years after publication. Therefore, the Casino Simulcasting temporary regulations only expired on January 6, 2021, and the Fantasy Contest temporary regulations do not expire until April 28, 2021. To date, no entities have sought to offer Casino Simulcasting under the Board's (and the Horse Racing Commission's) temporary regulations, and Fantasy Contests have seen no regulatory oversight issues.

2. Compliance with the RRA or the regulations of IRRC.

All matters addressed in this comment have been remedied in the final-form Regulatory Analysis Form.

3. Whether the regulation is consistent with the intent of the General Assembly; Possible conflict with or duplication of statutes or existing regulations; Implementation procedures.

The Board consulted with the Horse Racing Commission when developing the temporary regulations for Casino Simulcasting. As the proposed regulations only possessed minor amendments from the temporary regulations, the Board did not consult with the Commission when crafting the proposed rulemaking. The Commission did not provide any comments on the Board's proposed rulemaking package after it was published in the *Pennsylvania Bulletin*.

The Board, however, did contact the Commission when preparing this final-form rulemaking. Representatives of the Commission reviewed the proposed rulemaking and raised no issues with any provisions in the Board's regulations. The Board did make certain amendments in this final-form rulemaking to ensure that any reference to Commission regulations would not be impacted by the current state of the Commission's regulations being temporary. Additionally, both the Board and Commission are satisfied that there is no risk of conflict or duplication between the provisions

of this final-form rulemaking and the Commission's regulations, as it pertains to Casino Simulcasting.

4. *Section 1001a.13. Wagering limited to simulcasting facility.-Clarity.*

This section was updated to reflect the correct reference to the State Horse Racing Commission's regulations moving to Title 7 of the *Pennsylvania Code*. Additionally, clarifications were made later in the section to highlight that simulcasts of races can be visually displayed in other areas, but wagering may only take place in simulcasting facilities. Therefore, an entity that offers casino simulcasting at its licensed facility may broadcast the simulcasts of races in other areas of the casino for patrons to view, but the wagering may only occur in the formal simulcasting location in the licensed facility. As no wagering will take place by individuals watching the races broadcast outside of the simulcasting facility, the additional broadcast of these races bears no relationship to the integrity of simulcasting operations. Therefore, the requirement that the Board and Commission approve other locations in a licensed facility where the simulcast horse races may be shown was removed.

5. *Section 1001a.19. Casino Simulcasting accounting controls and audit protocols.-Clarity.*

This section has been amended to remove any ambiguity and document exactly what would make a submission under this section insufficient. The same amendments have also been made to Section 1206a.1(h).

6. *Section 1202a.2. Fantasy contest licenses.-Legislative intent; Implementation procedures; clarity.*

This section has been amended to provide clarity on the abbreviated application process by highlighting that the abbreviated application only needs to provide information that the Board does not already possess, in accordance with the Act.

7. *Section 1203a.3. Renewals.-Clarity.*

The terms "permit" was struck from this section and in Section 1203a.2(d), as no one involved in provision of fantasy contests requires a permit.

8. *Section 1203a.4. Licensed entity representative.-Clarity.*

A definition for "licensed entity representative" was added to Section 1201a.2 (relating to definitions). This definition was modeled after the definition of "licensed entity representative" in Section 1103 of the Act.

9. *Section 1205a.2. Procedures to govern the conduct of fantasy contests.-Clarity.*

The language requested voiding the participant's contest entry has been added to subsections (b)(5) and (6) as requested. As it pertains to the 15-day ban under subsection (b)(5), that ban applies not just to the contests the individual is not eligible for, but all contests. As such the language is needed to effectuate that 15-day temporary ban from all fantasy contests. The word "all" was added to clarify that point. To bring subsection (b)(6) into conformity with Section 325(4.2) of the Act, the temporary suspension language was removed, as the Act requires a permanent suspension and ban.

10. *Section 1205a.3. Fantasy contest accounts.-Clarity.*

This section was updated to reflect the recommended change.

11. *Section 1206a.1. Fantasy contest accounting and internal controls.-Clarity.*

This section was updated to reflect the recommended change.

12. *Section 1209a. Fantasy contest self-exclusion.-Legislative intent; Possible conflict or duplication of statutes and existing regulations; Implementation procedures; Protection of the public health, safety and welfare; Clarity.*

First, the language has been amended to bring the fantasy contest self-exclusion procedures in Chapter 1209a in line with the amendments the Board has made to the self-exclusion procedures of Chapter 503a in Final-Form Rulemaking #125-225. The reason e-mail address is requested information is because when an individual creates an online fantasy gaming account, they are required to provide their e-mail address. By gathering this information during the fantasy contest self-exclusion process, it makes the list more thorough and makes it more likely that a self-excluded individual will be prevented from opening a new fantasy contest account, and outstanding accounts with fantasy contest operators can be easily identified and closed.

Second, if an individual self-excludes under Section 503a (relating to casino self-exclusion), as amended by Final-Form Rulemaking #125-225, that person is only self-excluding from gaming at licensed facilities, including retail sports wagering. If a licensed facility contains a fantasy contest terminal, the individual who self-excluded under Section 503a would be unable to access that fantasy contest terminal, as he or she would be prohibited from entering the licensed facility. However, someone who chooses casino self-exclusion under Section 503a is not explicitly prohibited from engaging in fantasy contests online through a fantasy contest operator, as the lists under Section 503a and 1209a are separate self-exclusion lists. Licensed gaming entities may choose, at their own discretion, to prevent individuals who self-exclude from fantasy contests from participating in other forms of gaming.

Third, the Board's self-exclusion process allows an individual to self-exclude from multiple forms of gaming simultaneously if he or she wishes to do so. For example, if an individual wants to self-exclude from fantasy contests and interactive gaming so as to not have 24/7 access to gaming, but still wants to be able to visit brick-and-mortar casinos, they may choose to do so. Both the online portal and in-person self-exclusion processes allow for this option.

Fourth, the requested language was added to require individuals to update their information with the Board.

Fifth, the link to the fantasy contest self-exclusion information and portal is required to be on the operator's responsible gaming webpage pursuant to Section 1209a.2(d), and therefore, inclusion of this language in Section 1208a.2 would be redundant.

Sixth, individuals who choose to avail themselves of the fantasy contest self-exclusion process are required to identify as a problem gambler. The Board's Office of Compulsive and Problem Gambling determined that having a self-exclusion period for less than one year would be inconsistent with the entire purpose of self-exclusion. Additionally, all other forms of gaming in the Commonwealth have a minimum self-exclusion period of one year, making the one-year minimum for fantasy contests consistent with Board precedent.

13. *Miscellaneous clarity.*

Section 1001a.19(f)(2) has been updated to reflect the recommended change.

The definition of "applicant" in Section 1201a.2 is consistent with the definition in the Act, and therefore was not amended.

Section 1204a.1(a) has been updated to reflect the recommended change.

Section 1207a.1(a) has been updated to reflect the recommended change.

Section 1209a.4(b) has been updated to reflect the recommended change.

Fiscal Impact

Commonwealth. The Board expects that this final-form rulemaking will have a very minimal fiscal impact on the Board and other Commonwealth agencies, which primarily is the result of the need for some additional personnel to process applications and review, as well as to monitor and regulate the conduct of fantasy contests. Most of the additional duties will be absorbed by existing Board staff. The costs of the final-form regulations will be paid for by an assessment against the licensed fantasy contest operators' fantasy contest adjusted revenue as determined by the Department of Revenue.

Political subdivisions. This final-form rulemaking will not have fiscal impact on political subdivisions of this Commonwealth.

Private sector. This final-form rulemaking will not have a fiscal impact on the private sector other than for those who elect to participate in fantasy contests by an eligible fantasy contest operator.

If pursued, there will be licensing costs as set forth by 4 Pa.C.S. Chapter 3. Otherwise, additional costs to operators will likely be negligible since fantasy contests are currently operated in other regulated jurisdictions or in unregulated jurisdictions. Any costs incurred to operate fantasy contests in this Commonwealth should be offset by the operator proceeds of the fantasy contests.

General public. This final-form rulemaking will not have fiscal impact on the general public.

Paperwork Requirements

A Category 2, 3 or 4 casino licensee that wishes to offer casino simulcasting at its facility will be required to file a petition with the Board providing information regarding the proposed simulcasting area and equipment, security and surveillance, as well as updated accounting and internal control protocols. In addition, applications for licensure for any individuals to conduct and oversee the simulcast wagering will be submitted to the Board, either in paper form or electronically.

A fantasy contest licensed operator, licensed gaming entity, gaming service provider, and principals and key employees thereof involved in the provision of fantasy contests in this Commonwealth will be required to file applications with the Board providing information regarding the person's proposed activity, as well as accounting and internal control protocols and background information of each individual sufficient to permit the Board to determine the individual's suitability for licensure.

If an individual wishes to join the fantasy self-exclusion list, the person may do so online on the Board's website by filling out a webform. The Board's self-exclusion website address is:

<https://responsibleplay.pa.gov/self-exclusion/>

Effective Date

The final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Board submitted a copy of the proposed rulemaking, published at 49 Pa.B. 7414 and a copy of the Regulatory Analysis Form to IRRC and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees are provided with copies of comments received during the public comment period, as well as other documents when requested. With regard to this rulemaking, no comments were received from the Committees.

Under section 5a(j.2) of the Regulatory Review Act, on [insert date], the final-form rulemaking was deemed approved by the Committees. IRRC met on [insert date], and approved the regulations in accordance with section 5a(e) of the Regulatory Review Act.

Findings

The Board finds that:

(1) Public notice of intention to adopt these amendments was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa.Code §§ 7.1 and 7.2. (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) This final-form rulemaking is necessary and appropriate for the administration and enforcement of 4 Pa.C.S. Part I (relating to amusements generally) and Part II (relating to gaming).

Order

The Board, acting under 4 Pa.C.S. Part II, orders that:

(1) The regulations of the Board are amended by deleting and reserving Chapter 1001 and Chapters 1201 - 1209 and by adding Chapter 1001a of Subpart M (relating to casino simulcasting) and Chapters 1201a - 1209a of Subpart O (relating to fantasy contests) to read as set forth in Annex A.

(2) The Chairperson of the Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(3) This order shall take effect upon publication in the Pennsylvania Bulletin.

DAVID M. BARASCH,
Chairman

Annex A
TITLE 58. RECREATION
PART VII. GAMING CONTROL BOARD
Subpart M. CASINO SIMULCASTING
CHAPTER 1001a. CASINO SIMULCASTING

Chap.

1001. (Reserved)

Sec.

- 1001a.1. Definitions.
- 1001a.2. General requirements.
- 1001a.3. Preliminary application submission review.
- 1001a.4. Application processing.
- 1001a.5. Deficient applications.
- 1001a.6. Application withdrawal.
- 1001a.7. Casino simulcasting permit issuance and statement of conditions.
- 1001a.8. License, registration or permitting of employees.
- 1001a.9. Casino simulcasting agreements.
- 1001a.10. Simulcasting facilities.
- 1001a.11. Hours of operation.
- 1001a.12. Rules of Commission.
- 1001a.13. Wagering limited to simulcasting facility.
- 1001a.14. Prohibition of wagering.
- 1001a.15. Forfeited winnings.
- 1001a.16. Signage requirements.
- 1001a.17. Restricted areas.
- 1001a.18. Transmission and display of live races.
- 1001a.19. Casino simulcasting accounting controls and audit protocols.
- 1001a.20. Casino simulcasting record retention.

§ 1001a.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Casino simulcasting—The simultaneous transmission of live thoroughbred or harness horse race meetings from an in-State sending track, out-of-State sending track or a satellite facility, regardless of licensure status or whether the horse race meetings originate in this Commonwealth or any other state or jurisdiction, to a simulcasting facility in this Commonwealth by satellite devices, television cables, television lines or any other telecommunications technology for the purposes of conducting pari-mutuel wagering.

Casino simulcasting permit or simulcasting permit—A permit awarded by the Board under section 13F12 of the act (relating to casino simulcasting permit) which authorizes a licensed gaming entity to conduct casino simulcasting.

Casino simulcasting permit holder—A licensed gaming entity that holds a casino simulcasting permit issued by the Board in accordance with section 13F12 of the act.

Commission—The State Horse Racing Commission.

In-State sending track—A racetrack in this Commonwealth which is operated by a licensed racing entity and is permitted to conduct casino simulcasting.

Licensed gaming entity—A person who has been approved for and issued a Category 2 slot machine license, a Category 3 slot machine license or a Category 4 slot machine licensed in

accordance with sections 1304, 1305, 1305.1 and 1325 of the act, and who holds a casino simulcasting permit.

Licensed racing entity—A person that has obtained a license to conduct live thoroughbred or harness horse race meetings respectively with pari-mutuel wagering from the Commission under 3 Pa.C.S. §§ 9301–9374 (relating to race horse industry reform).

Out-of-State sending track—An interstate or international racetrack in a state or jurisdiction other than this Commonwealth which is equipped to conduct casino simulcasting and the operator of which is lawfully permitted to conduct horse race meetings and to provide simulcast horse races to slot machine licensees in this Commonwealth.

Pari-mutuel wagering—A form of wagering, including manual, electronic, computerized and other forms as approved by the Commission, on the outcome of a horse racing event in which all wagers are pooled and held by a licensed racing entity or secondary pari-mutuel wagering organization for distribution of the total amount, less the deductions authorized by law, to holders of winning tickets.

Simulcast horse race—A thoroughbred or harness horse race meeting conducted at a racetrack, whether within or outside this Commonwealth, which is simultaneously transmitted by an approved telecommunications technology to racetracks or simulcasting

facilities in this Commonwealth in accordance with regulations of the Commission.

Simulcasting facility—An area of a licensed facility established and maintained by a licensed gaming entity for the conduct of casino simulcasting in accordance with this chapter, 3 Pa.C.S. §§ 9301–9374, and regulations of the Board and the Commission.

Totalisator—A computer system used to pool wagers, record sales, calculate payoffs and display wagering data on a display device that is located at a simulcasting facility.

§ 1001a.2. General requirements.

(a) A casino simulcasting permit holder may conduct casino simulcasting in a simulcasting facility in accordance with the act and this chapter.

(b) An application for a casino simulcasting permit shall be submitted on forms or in an electronic format supplied or approved by the Board and contain all of the following information:

(1) The name, business address and contact information of the applicant.

(2) The name and location of the applicant's licensed facility.

(3) The name, business address, job title and a photograph of each principal and key employee of the applicant who will be involved in the conduct of casino simulcasting who is not currently licensed by the Board or the Commission, if known. **IF THE PRINCIPAL AND KEY EMPLOYEE ARE CURRENTLY LICENSED BY THE BOARD, THE APPLICATION MUST SPECIFICALLY IDENTIFY THEIR PARTICIPATION IN THE CONDUCT OF CASINO SIMULCASTING.**

(4) The estimated number of full-time and part-time employment positions that will be created at the licensed facility if casino simulcasting is authorized and an updated hiring plan under section 1510(a) of the act (relating to labor hiring preferences) which outlines the applicant's plan to promote the representation of diverse groups and Commonwealth residents in the employment positions.

(5) A brief description of the economic benefits expected to be realized by the Commonwealth, the Department of Agriculture and the race horse industry in this Commonwealth if casino simulcasting is authorized at the applicant's licensed facility.

(6) The details of any financing, if applicable, obtained or that will be obtained to fund an expansion or modification of the licensed facility to accommodate casino simulcasting or construct a simulcasting facility or to

otherwise fund the cost of commencing casino simulcasting operations.

(7) Information and documentation concerning financial background and resources, as the Board may require, to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant.

(8) A copy of or a detailed description of the terms and conditions of any agreement the licensed gaming entity has entered into or will enter into with a licensed racing entity to facilitate the conduct of casino simulcasting.

(9) A detailed description of any financial arrangements between a licensed gaming entity and a licensed racing entity related to the conduct of casino simulcasting.

(10) Detailed site and architectural plans of the proposed simulcasting facility within the applicant's licensed facility.

(11) A statement demonstrating compliance with the Interstate Horseracing Act of 1978 (15 U.S.C.A. §§ 3001-3007).

(12) Any other information as the Board may require.

(c) Upon request of the Board or Board staff, the applicant shall cooperate and provide supplemental information in support of its application. The applicant shall provide requested documents, records, supporting data and other information within the time period specified in the request or, if no time is

specified, within 30 days of the date of the request. If the applicant fails to provide the requested information within the required time period in the request, the Board may deny the application.

(d) The application, and amendments thereto, and other specific documents designated by the Board shall be filed promptly with the Board.

(e) An application and related materials that have been submitted to the Board will become the property of the Board and will not be returned to the applicant.

§ 1001a.3. Preliminary application submission review.

(a) Upon receipt, an application will be reviewed to ensure that it contains all of the following:

(1) The applicable application forms and additional information and accompanying documentation required by the act or the Board.

(2) Completed authorization forms, if required, for release of information from governmental agencies and other entities.

(b) If an applicant fails to include any required information, the applicant will be notified and given an opportunity to cure the deficiency in accordance with § 1001a.5 (relating to deficient applications).

§ 1001a.4. Application processing.

(a) Upon a determination that the prerequisites for filing have been met, the application will be accepted for filing and Board staff, if applicable, will:

(1) Obtain information as may be necessary to determine the qualifications of the applicant and any matter relating to the application.

(2) Promptly conduct an investigation of the applicant and on any matter relating to the application.

(3) Request the Department to promptly conduct a tax clearance review.

(4) Request the Department of Labor and Industry to perform an Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review.

(5) Request any agencies, entities or persons to provide information to the Board as deemed necessary by the Board.

(b) An application submitted under this subpart and information obtained by Board staff relating to the application will be part of the evidentiary record to be utilized by the Board when deciding to approve, condition, issue or deny a casino simulcasting permit.

§ 1001a.5. Deficient applications.

(a) If an application is found to be deficient, Board staff will notify the applicant of the deficiencies in the application and provide an opportunity for the applicant to cure the deficiencies within a specified time period.

(b) Failure to provide the information necessary to cure the deficiencies required under subsection (a) may result in the denial of the application.

(c) When an application is denied under subsection (b), the applicant will be given written notice of this action.

§ 1001a.6. Application withdrawal.

A request for withdrawal of an application may be made at any time prior to the Board taking action by letter sent to the Office of Hearings and Appeals.

§ 1001a.7. Casino simulcasting permit issuance and statement of conditions.

(a) *Issuance criteria.* In addition to the criteria in the act, the Board will not issue a casino simulcasting permit unless all of the following criteria have been established by the applicant:

(1) The applicant has fulfilled each condition set by the Board or in the act, including the execution of a statement of conditions.

(2) The applicant is found suitable consistent with the laws of the Commonwealth and is otherwise qualified to be issued a casino simulcasting permit.

(b) *Statement of conditions.*

(1) The applicant, as a condition precedent to the issuance of a casino simulcasting permit, shall execute a Statement of Conditions in the manner and form required by the Board. Execution of the Statement of Conditions constitutes the acceptance of each provision in the Statement of Conditions by the applicant.

(2) Failure to fully comply with any provision in an executed Statement of Conditions constitutes a violation and may result in Board-imposed administrative sanctions, up to and including revocation, against a casino simulcasting permit holder.

§ 1001a.8. License, registration or permitting of employees.

Except as provided for under section 13F15 of the act (relating to key employees and occupation permits), individuals engaged directly in wagering-related activities at a simulcasting facility, whether employed by the licensed gaming

entity or licensed racing entity and all other employees of the licensed gaming entity or licensed racing entity who work or will work in the simulcasting facility, shall be licensed, registered or permitted by the Board in accordance with §§ 433a.8, 435a.2, 435a.3 and 435a.5.

§ 1001a.9. Casino simulcasting agreements.

(a) An agreement between a licensed gaming entity and a licensed racing entity to facilitate casino simulcasting shall be filed with an application for a casino simulcasting permit and shall be approved by the Board and separately by the Commission. An agreement is not effective until approved by the Board and the Commission.

(b) An agreement must include all of the following:

(1) The percentage of the money wagered each racing day at the simulcasting facility and remaining in the wagering pools after the required distributions under 3 Pa.C.S. § 9335 (relating to pari-mutuel pool distribution) that will be paid to the licensed gaming entity. The amount retained by the licensed gaming entity may not exceed 25% of the money retained by the licensed racing entity under 3 Pa.C.S. § 9335.

(2) The times during which a licensed gaming entity may conduct casino simulcasting.

(3) A provision that provides the grounds and mechanisms for modifying or terminating the contract upon approval by the Board and the Commission.

(4) Provisions that contain a mechanism to resolve patron disputes and disputes between the licensed gaming entity and the licensed racing entity.

(5) Design, implementation and amendment of the system of internal controls required under section 13F11 of the act (relating to application for permit and requirements) and this chapter including the financial reporting requirements.

(6) Hiring, terminating, training and promoting of employees and the employment practices attendant thereto.

(7) The payment of local, State and Federal taxes, and slot machine license deposits required under the act and this chapter and any penalties imposed by the Board for violations thereof.

(8) Obtaining and maintaining insurance coverage, including coverage of public liability and property loss or damage.

(9) Selection of the casino simulcasting permit holder's independent auditor which may be the same as the independent auditor employed by the licensed gaming entity.

§ 1001a.10. Simulcasting facilities.

(a) A licensed gaming entity approved for and issued a casino simulcasting permit to operate casino simulcasting shall establish a simulcasting facility as part of its licensed facility.

(b) A simulcasting facility may be adjacent to, but may not be a part of, a room or location in which slot machines or table gaming are operated or conducted.

(c) The space or area required for the establishment of a simulcasting facility may not be used to decrease the number of slot machines or table games in operations at the licensed facility or to reduce the space approved by the Board for the operation of slot machines and the conduct of table games.

(d) A casino simulcasting permit holder shall establish and maintain a simulcasting facility of sufficient square footage to promote:

(1) Efficient operation of the facility.

(2) Viewing of simulcast horse races by patrons in a manner which is not obtrusive to the conduct of gaming within the licensed facility.

(e) Security of the simulcasting facility shall include the installation and maintenance of security and surveillance equipment, including closed circuit television equipment,

according to specifications approved by the Board. The Board shall have direct access to the system or its signal.

§ 1001a.11. Hours of operation.

The time during which a licensed gaming entity may conduct casino simulcasting shall be set forth in the licensed gaming entity's casino simulcasting agreement under § 1001a.9 (relating to casino simulcasting agreements).

§ 1001a.12. Rules of Commission.

Except as otherwise provided in the act or this chapter, the standards and rules of racing, simulcasting and the conduct of pari-mutuel wagering in simulcasting facilities are subject to 3 Pa.C.S. §§ 9301-9374 (relating to race horse industry reform), regulations of the Commission promulgated under 3 Pa.C.S. (relating to Agriculture Code), and the Interstate Horseracing Act of 1978 (15 U.S.C.A. §§ 3001-3007).

§ 1001a.13. Wagering limited to simulcasting facility.

Except as provided for in ~~58 Pa. Code Parts IV and V (relating to Horse Racing Commission, and Harness Racing Commission)~~ **7 PA. CODE PART VIII (RELATING TO STATE HORSE RACING COMMISSION)**, wagering on simulcast horse races within the premises of a licensed facility shall be conducted only in a

simulcasting facility. Simulcast horse races may be shown in other areas of the licensed facility ~~as approved by the Board, in consultation with the Commission,~~ **BUT NO WAGERING ON A SIMULCAST HORSE RACE SHALL TAKE PLACE IN ANY AREA THAT IS NOT A SIMULCASTING FACILITY.**

§ 1001a.14. Prohibition of wagering.

A casino simulcasting permit holder shall establish procedures:

(1) To prohibit an individual under 21 years of age from entering a simulcasting facility at a licensed facility, except that an individual 18 years of age or older who is employed by a slot machine licensee, a gaming service provider, the Board, or other regulatory or emergency response agency may enter and remain in that area while engaged in the performance of the individual's employment duties.

(2) To train employees and establish policies to:

(i) Identify and remove individuals who are under 21 years of age and not otherwise authorized to be in the simulcasting facility.

(ii) Immediately notify a casino compliance representative at the licensed facility and the Pennsylvania State Police at a time an individual under 21 years of age is discovered in the simulcasting facility.

(iii) Refuse wagers from an individual under 21 years of age.

(iv) Deny check cashing privileges, extensions of credit, complementary goods and services, and other similar privileges and benefits to an individual under 21 years of age.

(v) Ensure that individuals under 21 years of age do not receive, either from the casino simulcasting permit holder or an agent thereof, targeted mailing, telemarketing promotions or other promotional materials relating to casino simulcasting activity as provided for under sections 13F01–13F44 of the act (relating to casino simulcasting).

§ 1001a.15. Forfeited winnings.

(a) An individual under 21 years of age may not collect in any manner or in any proceeding, whether personally or through an agent, winnings or recover losses arising as a result of any casino simulcasting activity.

(b) Winnings incurred by an individual under 21 years of age shall be remitted to the Board to support compulsive and problem gambling programs of the Board.

§ 1001a.16. Signage requirements.

(a) A casino simulcasting permit holder shall post signs that include a statement providing the following:

(1) "It is unlawful for any individual under 21 years of age to enter or remain in a simulcasting facility. Individuals violating this prohibition will be removed and may be subject to arrest and criminal prosecution."

(2) "If you or someone you know has a gambling problem, help is available. Call (1-800-GAMBLER)."

(b) The signs shall be prominently posted at each entrance and exit of the simulcasting facility.

§ 1001a.17. Restricted areas.

(a) A casino simulcasting permit holder who wishes to conduct casino simulcasting shall, unless otherwise approved by the Board, in consultation with the Commission, establish and maintain restricted areas, which are not accessible to the general public, including all of the following:

(1) A satellite cage in its simulcasting facility utilized for conducting pari-mutuel wagering and the counting and recording of assets.

(2) Designated areas for the placement and operation of all of the following:

(i) A totalisator system used to pool wagers, records sales, calculate payoffs and display wagering data on a display device.

(ii) Audio/video equipment utilized to receive and transmit simulcast signals.

(b) A casino simulcasting permit holder shall develop and submit to the Board, as part of the submission required under § 1001a.19 (relating to casino simulcasting accounting controls and audit protocols), procedures for safeguarding and limiting access to the totalisator system and audio/video equipment utilized to transmit simulcast signals.

§ 1001a.18. Transmission and display of live races.

(a) Video display monitors shall be installed in approved areas of a licensed facility to deliver simulcast horse race meetings to patrons on video walls or other video display technology.

(b) A casino simulcasting permit holder shall offer all of the following to patrons at a simulcasting facility:

(1) Audio and video coverage of every race upon which patrons of the simulcasting facility are permitted to wager.

(2) Video coverage of race-related information for every race upon which patrons of the simulcasting facility are permitted to wager.

(c) A simulcasting facility shall be equipped with a system permitting the reception of transmissions of races and race-related information without interference or interception.

(d) All simulcast signals shall be encoded, and a casino simulcasting permit holder may not send the signals anywhere other than the licensed facility authorized in the act or this chapter.

(e) A casino simulcasting permit holder shall develop and implement a security system to protect the equipment being used to receive transmissions of races and race-related information from tampering.

(f) If the reception of the video coverage of a race is interrupted, the audio coverage of the race must continue to be presented.

(g) If the reception of the audio coverage of the race is interrupted, the video coverage of the race must continue to be displayed.

(h) If the reception of the audio and video coverage of a race is interrupted during the running of the race, wagering being conducted on future races at the simulcasting facility shall cease until the transmissions are restored. If the interruption of audio or video coverage, or both, prevents the display of a race at the simulcasting facility, a replay of the interrupted race must be displayed at the simulcasting facility as soon after the restoration as possible.

(i) At least 30 minutes prior to the beginning of wagering at the simulcasting facility, a test of the equipment used to

receive and display races and race-related information at the simulcasting facility shall be conducted to ensure that the system is operating properly.

(j) A licensed racing entity which operates interstate or international simulcasting of horse race meetings in this Commonwealth shall have discretion to transmit all or some of the live races conducted at the racetrack to the licensed facility of a licensed gaming entity which has established a simulcasting facility. A race which is transmitted from an in-State sending track may be transmitted to all licensed gaming entities which have established simulcasting facilities.

(k) A licensed gaming entity which establishes a simulcasting facility and conducts casino simulcasting shall, as a condition of continued operation of casino simulcasting, receive all live races which are transmitted by in-State sending tracks.

(l) Casino simulcasting shall be limited to the transmission and display of thoroughbred horse racing and standardbred harness racing permitted under 3 Pa.C.S. §§ 9301-9374 (relating to race horse industry reform).

(m) The Board and the Commission shall have access to the simulcast system or its signal.

§ 1001a.19. Casino simulcasting accounting controls and audit protocols.

(a) At least 90 days before the beginning of casino simulcasting, a casino simulcasting permit holder shall submit to the Board for approval all internal control systems and audit protocols for the casino simulcasting permit holder's casino simulcasting operations.

(b) A casino simulcasting permit holder's internal controls and audit protocols shall:

(1) Provide for reliable records, accounts and reports of any financial event that occurs in the conduct of casino simulcasting, including reports to the Board and the Commission related to casino simulcasting.

(2) Provide for accurate and reliable financial records related to the conduct of casino simulcasting and the pari-mutuel system of wagering.

(3) Establish procedures and security for the counting, recording and storage of money generated from the conduct of casino simulcasting.

(4) Establish procedures and security standards for the maintenance of telecommunications equipment and video display technology used in connection with the conduct of casino simulcasting.

(5) Establish procedures and rules to govern the conduct of casino simulcasting and the responsibility of employees related to casino simulcasting.

(6) Establish procedures for the collection, recording and deposit of revenue from the conduct of casino simulcasting, including the roles of the Commission, the Department, licensed racing entities and licensed gaming entities in the collection and recording of the revenue.

(7) Establish reporting procedures and records required to ensure that all money generated from casino simulcasting is accounted for and winners' names, when required under applicable Federal or State law, are filed with the appropriate taxing authorities.

(8) Ensure that the system of pari-mutuel wagering used in the conduct of casino simulcasting is in accordance with 3 Pa.C.S. §§ 9301-9374 (relating to race horse industry reform) and regulations of the Commission promulgated under 3 Pa.C.S. (relating to Agriculture Code).

(9) Ensure, in consultation with the Commission, the proper and timely accounting for and retention of percentages for pari-mutuel pools and the proper and timely distribution of money in any pari-mutuel pool generated from casino simulcasting.

(10) Ensure that all functions, duties and responsibilities related to casino simulcasting are appropriately segregated and performed in accordance with sound financial practices by qualified employees.

(11) Permit use of its simulcasting facility by the Board, the Bureau, the Commission and other persons authorized by the Board and the Commission to facilitate their ability to perform regulatory and oversight functions.

(c) The submission required under subsection (a) must include a detailed description of the casino simulcasting permit holders administrative and accounting procedures related to casino simulcasting, including its written system of internal controls. Each written system of internal controls must include all of the following:

(1) An organizational chart depicting appropriate functions and responsibilities of employees involved in casino simulcasting.

(2) A description of the duties and responsibilities of each position shown on the organizational chart.

(3) The record retention policy of the casino simulcasting permit holder.

(4) The procedure to be utilized to ensure that money generated from the conduct of casino simulcasting is

safeguarded, including mandatory counting and recording procedures.

(5) Other items the Board, in consultation with the Commission, may request in writing to be included in the internal controls.

(6) A statement signed by the casino simulcasting permit holder's chief financial officer or other competent person attesting that the signatory believes, in good faith, that the system satisfies the requirements of the act and this section.

(d) Prior to authorizing a casino simulcasting permit holder to begin the conduct of casino simulcasting, the Board, in consultation with the Commission, will review the system of internal controls submitted under subsection (c) to determine whether it conforms to the requirements of this subchapter and whether it provides adequate and effective controls for the conduct of casino simulcasting.

(e) If a casino simulcasting permit holder intends to make a change or amendment to its system of internal controls, it shall submit the change or amendment electronically to the Bureau of Gaming Operations, in a manner prescribed by the Bureau of Gaming Operations. The casino simulcasting permit holder may implement the change or amendment on the 30th calendar day following the filing of a complete submission unless the casino

simulcasting permit holder receives written notice tolling the change or amendment in accordance with subsection (f)(2) or written notice from the Board's Executive Director rejecting the change or amendment.

(f) If during the 30-day review period in subsection (e), the Bureau of Gaming Operations, in consultation with the Commission, preliminarily determines that a procedure in a submission contains an insufficiency likely to negatively affect the integrity of casino simulcasting or the control of revenue generated from pari-mutuel wagering, the Bureau of Gaming Operations, by written notice to casino simulcasting permit holder, will:

(1) Specify the nature of the insufficiency and, when possible, an acceptable alternative procedure.

(2) Direct that the 30-calendar-day review period in subsection (f) be tolled and that any internal controls at issue not be implemented until approved ~~under subsection (i)~~.

(g) ~~Examples of submissions that may contain an insufficiency likely to negatively affect the integrity of casino simulcasting and the pari-mutuel system of wagering include the following~~ A SUBMISSION UNDER THIS SECTION SHALL BE DEEMED INSUFFICIENT AND LIKELY TO NEGATIVELY AFFECT THE INTEGRITY OF CASINO SIMULCASTING AND THE PARI-MUTUEL SYSTEM OF WAGERING IF THE SUBMISSION:

(1) ~~Submissions that fail~~ **FAILS** to provide information sufficient to permit the review of casino simulcasting or the reconstruction of pari-mutuel wagering handle and pari-mutuel wagering pool distributions.

(2) ~~Submissions that fail~~ **FAILS** to provide for the segregation of incompatible functions so that no employee is in a position to both commit an error or perpetrate a fraud and to conceal the error or fraud in the normal course of the employee's duties.

(3) ~~Submissions that do~~ **DOES** not include forms or other materials referenced in the submission or required under the act or this chapter.

(4) ~~Submissions that would implement~~ **WOULD IMPLEMENT** operations or accounting procedures not authorized by the act or this subpart.

(5) ~~Submissions that are~~ **IS** dependent upon the use of equipment or related devices or software not approved by the Board or the Commission, unless the submissions are required as part of an authorized test of the equipment or related device or software.

(h) Whenever a change or amendment has been tolled under subsection (f)(2), the casino simulcasting permit holder may submit a revised change or amendment within 30 days of receipt of the written notice from the Bureau of Gaming Operations. The

casino simulcasting permit holder may implement the revised change or amendment upon receipt of written notice of approval from the Board's Executive Director, in consultation with the Commission, or on the 30th calendar day following the filing of the revision unless the casino simulcasting permit holder receives written notice tolling the change or amendment in accordance with subsection (g) or written notice from the Board's Executive Director, in consultation with the Commission, rejecting the change or amendment.

§ 1001a.20. Casino simulcasting record retention.

(a) For the purposes of this section, "books, records and documents" means any book, record or document pertaining to, prepared in or generated by the operation of the licensed facility including all forms, reports, accounting records, ledgers, subsidiary records, computer generated data, internal audit records, correspondence and personnel records.

(b) As a condition of continued operation, a casino simulcasting permit holder shall agree to maintain all books, records and documents pertaining to casino simulcasting in a manner and location in this Commonwealth as approved by the Board, in consultation with the Commission. All books, records and documents shall:

(1) Be organized in a manner to clearly depict by separate records the total amount of money contributed to every pari-mutuel pool in accordance with the applicable provisions of 3 Pa.C.S. §§ 9301-9374 (relating to race horse industry reform) and any regulation promulgated under 3 Pa.C.S. §§ 9301-9374.

(2) Be segregated by separate accounts within the licensed gaming entity's books, records and documents, except for any books, records and documents that are common to slot machine operations, table game operations and casino simulcasting, as determined by the Board, in consultation with the Commission.

(3) Be immediately available for inspection upon request of the Board, the Commission, the Bureau, the Department, the Pennsylvania State Police or the Attorney General, or agents thereof, during all hours of operation of the casino simulcasting permit holder's simulcasting facility.

(4) Prepared and maintained in a complete, accurate and legible form. Electronic data must be stored in a format that ensures readability, regardless of whether the technology or software that created or maintained it has become obsolete.

(5) Retained in a secure location in the licensed facility that is equipped with a fire suppression system or at another location approved under subsection (d).

(6) Organized and indexed in a manner to provide immediate accessibility to the Board, the Commission, the Bureau, the Department, the Pennsylvania State Police or the Attorney General, or agents thereof.

(7) Destroyed only after expiration of the minimum retention period specified in subsection (c), except that the Board may, in consultation with the Commission, upon the written request of a casino simulcasting permit holder and for good cause shown, permit the destruction at an earlier date.

(c) Original books, records and documents shall be retained by a casino simulcasting permit holder for a minimum of 5 years.

(d) A casino simulcasting permit holder may request, in writing, that the Board's Executive Director, in consultation with the Commission, approve a location outside the licensed facility to store original books, records and documents. The request must include all of the following:

(1) A detailed description of the proposed location, including security and fire suppression systems.

(2) The procedures under which of the Board, the Commission, the Bureau, the Department, the Pennsylvania State Police or the Attorney General, or agents thereof, shall be able to gain access to the original books, records and documents retained at the location outside the licensed facility.

(e) A casino simulcasting permit holder may request, in writing, that the Board's Executive Director, in consultation with the Commission, approve the electronic copying and storage of original books, records and documents. The request must include representations regarding all of the following:

(1) The processing, preservation and maintenance methods which will be employed to ensure that the books, records and documents are available in a format which makes them readily available for review and copying.

(2) The inspection and quality control methods which will be employed to ensure that the electronic books, records and documents exhibit a high degree of legibility and readability when displayed electronically or reproduced on paper.

(3) The availability of a computer and printer for use by the Board, the Commission, the Bureau, the Department, the Pennsylvania State Police or the Attorney General, or agents thereof, at the licensed facility or other location approved by the Board, in consultation with the Commission, and the readiness with which the books, records or documents being stored electronically can be located, read and reproduced.

(4) The availability of a detailed index of all information maintained electronically and arranged in a manner to permit the immediate location of any particular book, record or document.

(f) Nothing herein shall be construed as relieving a casino simulcasting permit holder from meeting any obligation to prepare or maintain any book, record or document required by any Federal, State or local government body, authority or agency.

Subpart O. FANTASY CONTESTS

Chap.

1201–1209. (Reserved)

Chap.

1201a. FANTASY CONTESTS GENERALLY
1202a. APPLICATION REQUIREMENTS
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CHAPTER 1201a. FANTASY CONTESTS GENERALLY

Sec.

1201a.1. Scope.
1201a.2. Definitions.

§ 1201a.1. Scope.

The purpose of this subpart is to implement and govern the operation and conduct of fantasy contests in this Commonwealth as provided for in 4 Pa.C.S. §§ 301–342 (relating to fantasy contests).

§ 1201a.2. Definitions.

The following words and terms, when used in this subpart, have the following meanings, unless the context clearly indicates otherwise:

Applicant—A person who, on his own behalf or on behalf of another, is applying for permission to engage in any act or activity which is regulated under this subpart. If the applicant is a person other than an individual, the Board will determine the associated persons whose qualifications are necessary as a precondition to the licensing of the applicant.

Beginner—A participant who has entered fewer than 51 contests offered by a single licensed operator or who does not meet the definition of "highly-experienced player."

Entry fee—The cash or cash equivalent paid by a participant to a licensed operator to participate in a fantasy contest.

Fantasy contest—

(i) An online fantasy or simulated game or contest with an entry fee and a prize or award in which all of the following apply:

(A) The value of all prizes or awards offered to winning participants is established and made known to participants in advance of the contest and the value is not determined by the number of participants or the amount of any fees paid by those participants.

(B) All winning outcomes reflect the relative knowledge and skill of participants and are determined by accumulated statistical results of the performance of individuals, including athletes in the case of sports events.

(C) The winning outcome is not based on the score, point spread or performance of a single actual team or combination of teams, or solely on a single performance of an individual athlete or player in a single actual event.

(ii) The term does not include social fantasy contests.

Fantasy contest account—The formal electronic system implemented by a licensed operator to record a participant's entry fees, prizes or awards and other activities related to participation in the licensed operator's fantasy contests.

Fantasy contest license—A license issued by the Board authorizing a person to offer fantasy contests in this Commonwealth in accordance with this subpart.

Fantasy contest terminal—A computerized or electronic terminal or similar device within a licensed facility that allows participants to do all of the following:

- (i) Register for a fantasy contest account.
- (ii) Pay an entry fee.
- (iii) Select athletes for a fantasy contest.
- (iv) Receive winnings.
- (v) Otherwise participate in a fantasy contest.

Highly experienced player-

(i) Any participant who has done one of the following:

(A) Entered more than 1,000 fantasy contests.

(B) Won more than three fantasy contest prizes or awards valued at \$1,000 or more.

(ii) Once a participant is classified as a highly-experienced player, a player shall remain classified as a highly-experienced player.

*Key employee-*An individual who is employed by an applicant for a fantasy contest license or a licensed operator in a director or department head capacity or who is empowered to make discretionary decisions that regulate fantasy contest operations as determined by the Board.

LICENSED ENTITY REPRESENTATIVE- A PERSON, INCLUDING AN ATTORNEY, AGENT OR LOBBYIST, ACTING ON BEHALF OF OR AUTHORIZED TO REPRESENT THE INTEREST OF ANY APPLICANT, LICENSEE, OR OTHER PERSON AUTHORIZED BY THE PENNSYLVANIA GAMING CONTROL BOARD TO ENGAGE IN ANY ACT OR ACTIVITY WHICH IS REGULATED UNDER THE PROVISIONS OF THIS SUBPART REGARDING ANY MATTER BEFORE, OR WHICH MAY REASONABLY BE EXPECTED TO COME BEFORE, THE PENNSYLVANIA GAMING CONTROL BOARD.

Licensed facility-

(i) The physical land-based location at which a licensed gaming entity is authorized to place and operate slot

machines and, if authorized by the Board, to conduct table games.

(ii) The term includes any of the following:

(A) An area of a licensed racetrack at which was previously authorized under section 1207a(17) of the act (relating to regulatory authority of board) to operate slot machines prior to April 28, 2018.

(B) A Board-approved interim facility or temporary facility.

(C) An area of a hotel which the Board determines is suitable to conduct table games.

(D) An area of a licensed facility where casino simulcasting is conducted, as approved by the Board.

Licensed operator—A person who holds a fantasy contest license.

Participant—An individual who participates in a fantasy contest, whether the individual is located in this Commonwealth or another jurisdiction.

Person—A natural person, corporation, publicly traded corporation, foundation, organization, business trust, estate, limited liability company, licensed corporation, trust, partnership, limited liability partnership, association or any other form of legal business entity.

Principal—An officer, director or person who directly holds a beneficial interest in or ownership of the securities of an applicant for a fantasy contest license or a licensed operator, a person who has a controlling interest in an applicant for a fantasy contest license or a licensed operator or who has the ability to elect a majority of the board of directors of a licensed operator or to otherwise control a licensed operator, lender or other licensed financial institution of an applicant for a fantasy contest license or a licensed operator, other than a bank or lending institution which makes a loan or holds a mortgage or other lien acquired in the ordinary course of business, underwriter of an applicant for a fantasy contest license or a licensed operator or other person or employee of an applicant for a fantasy contest license or a licensed operator deemed to be a principal by the Board.

Prize or award—Anything of value worth \$100 or more, or any amount of cash or cash equivalents.

Publicly traded corporation—A person, other than an individual, who:

(i) Has a class or series of securities registered under the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78a-78qq).

(ii) Is a registered management company under the Investment Company Act of 1940 (15 U.S.C.A. §§ 80a-1-80a-64).

(iii) Is subject to the reporting requirements under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.A. § 78o(d)) by reason of having filed a registration statement that has become effective under the Securities Act of 1933 (15 U.S.C.A. §§ 77a-77aa).

Script—A list of commands that a fantasy contest related computer software program can execute that is created by a participant or third party not approved by the licensed operator to automate processes on a licensed operator's fantasy contest platform.

Season-long fantasy contest—A fantasy contest offered by a licensed operator that is conducted over an entire sports season.

Social fantasy contest—A fantasy contest which meets one or more of the following criteria:

(i) Nothing is offered to participants other than game-based virtual currency that cannot be redeemed for cash, merchandise or anything of value outside the context of game play.

(ii) The contest is free to all participants.

(iii) The entity offering the contest does not receive compensation other than an administrative fee for the maintenance of statistical information in connection with the contest.

(iv) The winnings offered are of no greater value than the lowest individual fee charged to a single participant for entering or participating in the contest.

(v) The contest encompasses an entire season of the activity in which the underlying competition is being conducted and the winnings offered, if any, are determined by agreement of the participants only to distribute fully the participants' contributions to a fund established to grant the winnings for the contest.

Suspicious transaction—A transaction between a licensed operator or an employee of a licensed operator and an individual that involves the acceptance or redemption by a person of cash or cash equivalent involving or aggregating \$5,000 or more which a licensed operator or employee of a licensed operator knows, suspects or has reason to believe:

(i) Involves funds derived from illegal activities or is intended or conducted to conceal or disguise funds or assets derived from illegal activities.

(ii) Is part of a plan to violate or evade a law or regulation to avoid a transaction reporting requirement under the laws or regulations of the United States or the Commonwealth, including a plan to structure a series of transactions to avoid a transaction reporting requirement under the laws of the United States or the Commonwealth.

(iii) Has no apparent lawful purpose or is not the type of transaction in which a person would normally be expected to engage and the licensed operator or employee knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

CHAPTER 1202a. APPLICATION REQUIREMENTS

Sec.

1202a.1. General licensing requirements.

1202a.2. Fantasy contest licenses.

1202a.3. Principals.

1202a.4. Key employees.

1202a.5. Gaming service providers.

§ 1202a.1. General licensing requirements.

A fantasy contest license holder may conduct fantasy contests in this Commonwealth in accordance with 4 Pa.C.S. §§ 301-342 (relating to fantasy contests) and this subpart.

§ 1202a.2. Fantasy contest licenses.

(a) An application for a fantasy contest license shall be submitted on forms or in an electronic format supplied or approved by the Board and must contain all of the following information:

(1) The identity of the applicant as follows:

(i) If the applicant is an individual, the name, social security number, contact information and address of the applicant.

(ii) If the applicant is a corporation, the name and business address of the corporation, Federal employer identification number, the state of its incorporation, and the full name, contact information and business address of each officer and director thereof.

(iii) If the applicant is a foreign corporation, the name and business address of the corporation, whether it is qualified to do business in this Commonwealth, and the full name, contact information and business address of each officer and director thereof.

(iv) If the applicant is a partnership or joint venture, the name, contact information and business address of each officer thereof.

(2) The name and location of the applicant's licensed facility, if applicable.

(3) The name, contact information and business address of the person having custody of the applicant's financial records.

(4) The name and business address, job title, fingerprints and a photograph of each principal and key employee of the applicant who will be involved in fantasy contests and

who is not currently licensed by the Board, if known. If the principal and key employee are currently licensed by the Board, the application must specifically identify their participation in offering fantasy contests.

(5) Information and documentation concerning financial background and resources, as the Board may require, to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant.

(6) A copy of any agreement or agreements the applicant has entered into or a detailed description of the terms and conditions of any agreement the applicant will enter into to facilitate the operation or conduct of fantasy contests.

(7) Any other information the Board may require.

(b) Upon request of the Board or Board staff, the applicant shall cooperate and provide supplemental information in support of its application. The applicant shall provide requested documents, records, supporting data and other information within the time period specified in the request or, if no time is specified, within 30 days of the date of the request. If the applicant fails to provide the requested information within the required time period in the request, the Board may deny the application.

(c) The application, and amendments thereto, and other specific documents designated by the Board shall be filed promptly with the Board with the applicable application fee.

(d) An application and related materials that have been submitted to the Board will become the property of the Board and will not be returned to the applicant.

(e) An abbreviated application for a fantasy contest license by **AN APPLICANT THAT IS ALSO** a licensed gaming entity may be submitted on forms or in an electronic format supplied or approved by the Board, **AND THE APPLICANT SHALL NOT BE REQUIRED TO SUBMIT THE INFORMATION REQUIRED UNDER SUBSECTION (A) IF THE APPLICANT HAS PREVIOUSLY PROVIDED THE INFORMATION TO THE BOARD IN CONJUNCTION WITH A PRIOR APPLICATION TO BECOME A LICENSED GAMING ENTITY.**

§ 1202a.3. Principals.

(a) A principal as defined in this subpart shall apply for licensure as a principal in accordance with § 433a.8 (relating to principal applications).

(b) In addition to information required under § 433a.8, an individual required to be licensed as a principal, unless otherwise directed by the Board, shall submit all of the following:

(1) The nonrefundable application fee posted on the Board's web site.

(2) A description of responsibilities as a principal.

(3) Details relating to a similar license, permit or other authorization obtained in another jurisdiction.

(4) The consent to a background investigation by the Bureau and a release to obtain the information necessary for the completion of the background investigation.

(5) Other information required by the Board.

(c) Following review of the application and background investigation, the Board may approve a principal license if the applicant has proven by clear and convincing evidence that the applicant is a person of good character, honesty and integrity, and is eligible and suitable to be licensed as a principal.

(d) A principal license is not transferable.

(e) A temporary credential, which may be valid up to 270 days, may be issued by the Board to a principal if the Board determines additional time is needed to complete an investigation for licensure.

§ 1202a.4. Key employees.

(a) A key employee as defined in this subpart shall apply for licensure as a key employee in accordance with § 435a.2 (relating to key employee license).

(b) In addition to information required under § 435a.2, an individual required to be licensed as a key employee, unless otherwise directed by the Board, shall submit all of the following:

(1) The nonrefundable application fee posted on the Board's web site.

(2) A description of employment responsibilities.

(3) The consent to a background investigation by the Bureau and a release to obtain the information necessary for the completion of the background investigation.

(4) Details relating to a similar license or other authorization obtained in another jurisdiction.

(5) Other information required by the Board.

(c) Following review of the application and background investigation, the Board may approve a key employee license if the applicant has proven by clear and convincing evidence that the applicant is a person of good character, honesty and integrity, and is eligible and suitable to be licensed as a key employee.

(d) A temporary credential, which may be valid up to 270 days, may be issued by the Board to a key employee if the Board determines additional time is needed to complete an investigation for licensure.

(e) An individual may not perform duties associated with a position that requires a key employee license prior to receiving a temporary or permanent credential unless otherwise authorized by the Board.

§ 1202a.5. Gaming service providers.

The Board may, in its discretion, require a licensed operator who is not a licensed gaming entity to apply for a certificate or registration as a gaming service provider to provide fantasy contests to, or on behalf of, a licensed gaming entity under 4 Pa.C.S. § 342 (relating to licensed gaming entities).

CHAPTER 1203a. APPLICATION PROCESS

Sec.

1203a.1. Application review and processing.

1203a.2. Application withdrawal.

1203a.3. Renewals.

1203a.4. Licensed entity representatives.

§ 1203a.1. Application review and processing.

(a) The Board will review applications submitted under this subpart to ensure compliance with 4 Pa.C.S. §§ 301–342 (relating to fantasy contests) and Board regulations.

(b) If an applicant fails to include any required documentation or information, the applicant will be notified and given an opportunity to cure the deficiency.

(c) Upon a determination that the prerequisites for filing have been met, the application will be accepted for filing and Board staff, if applicable, will:

(1) Obtain information as may be necessary to determine the qualifications of the applicant and any matter relating to the application.

(2) Promptly conduct an investigation of the applicant and on any matter relating to the application, if applicable.

(3) Request the Department to promptly conduct or update a tax clearance review.

(4) Request the Pennsylvania State Police or Federal Bureau of Investigation to conduct or update a criminal history review.

(5) Request any agencies, entities or persons to provide information to the Board as deemed necessary by the Board.

(d) An application submitted under this subpart and information obtained by Board staff relating to the application will be part of the evidentiary record to be utilized by the Board when deciding to approve, condition, issue or deny a fantasy contest license.

(e) A determination as to the merit of the applicant to receive a fantasy contest license will be made within 120 days. If the license is not approved, the Board will provide the

applicant with the justification for not issuing the fantasy contest license.

§ 1203a.2. Application withdrawal.

(a) A request for withdrawal of an application may be made at any time prior to the Board taking action on the application in accordance with all of the following requirements:

(1) A request for withdrawal of an entity applying for a license, certification or registration, or an individual applying for a principal license shall be made by filing a petition with the Board in accordance with § 493a.4 (relating to petitions generally).

(2) A request for withdrawal of an individual applying for a key employee license ~~or a permit~~ shall be made on a form supplied by the Bureau of Licensing. If Board staff objects to the request for withdrawal, the person filing the form will be notified and may be required to file a petition for withdrawal with the Board in accordance with § 493a.4.

(b) The petition or form must set forth the reasons for the withdrawal.

(c) When rendering a decision on a petition for withdrawal, the Board may set the conditions of withdrawal and may deny or grant the request with or without prejudice.

(d) Unless the Board otherwise directs, fees or other payments relating to an application, license, ~~permit~~, registration or certification are not refundable by reason of the withdrawal.

§ 1203a.3. Renewals.

(a) Licenses and registrations issued under this subpart will be for a term of 5 years from the date of issuance.

(b) An application for renewal of a license or registration shall be submitted at least 180 days prior to the expiration of the license or registration and must include an update of the information in the initial application and any prior renewal applications.

(c) A license, ~~permit~~ or registration for which an application for renewal has been timely filed will continue in effect until the Board acts upon the application for renewal.

§ 1203a.4. Licensed entity representatives.

(a) A licensed entity representative shall register with the Board in a manner prescribed by the Board. The registration must include the name, employer or firm, business address and business telephone number of the licensed entity representative and any licensed operator, applicant for licensure or other person being represented.

(b) A licensed entity representative has an affirmative duty to update its registration information on an ongoing basis. Failure to update a registration is punishable by the Board.

CHAPTER 1204a. FANTASY CONTEST LICENSES

Sec.

1204a.1. Fantasy contest license issuance and statement of conditions.

1204a.2. **LICENSED FANTASY CONTEST OPERATOR CHANGE OF OWNERSHIP OR CONTROL**

§ 1204a.1. Fantasy contest license issuance and statement of conditions.

(a) *Issuance criteria.* In addition to the criteria in 4 Pa.C.S. §§ 301-342 (relating to fantasy contests), the Board will **not** issue or renew a fantasy contest license **unless IF** all of the following criteria have been established by the applicant:

(1) The applicant has fulfilled each condition set by the Board or contained in 4 Pa.C.S. §§ 301-342, including the execution of a statement of conditions.

(2) The applicant is found suitable consistent with the laws of the Commonwealth and is otherwise qualified to be issued a fantasy contest license.

(b) *Statement of conditions.*

(1) The applicant, as a condition precedent to the issuance of a fantasy contest license, shall execute a Statement

of Conditions in the manner and form required by the Board. Execution of the Statement of Conditions constitutes the acceptance of each provision in the Statement of Conditions by the applicant.

(2) Failure to fully comply with any provision in an executed Statement of Conditions constitutes a violation and may result in Board-imposed administrative sanctions, up to and including revocation, against a licensee.

§ 1204a.2. LICENSED FANTASY CONTEST OPERATOR CHANGE OF OWNERSHIP OR CONTROL.

(a) A LICENSED FANTASY CONTEST OPERATOR SHALL NOTIFY THE BOARD UPON BECOMING AWARE OF ANY PROPOSED CHANGE OF OWNERSHIP OF THE LICENSED FANTASY CONTEST OPERATOR BY A PERSON OR GROUP OF PERSONS ACTING IN CONCERT WHICH INVOLVES ANY OF THE FOLLOWING:

(1) MORE THAN 15% OF A LICENSED FANTASY CONTEST OPERATOR'S SECURITIES OR OTHER OWNERSHIP INTERESTS.

(2) THE SALE, OTHER THAN IN THE ORDINARY COURSE OF BUSINESS, OF A LICENSED FANTASY CONTEST OPERATOR'S ASSETS.

(3) ANY OTHER TRANSACTION OR OCCURRENCE DEEMED BY THE BOARD TO BE RELEVANT TO FANTASY CONTEST LICENSE QUALIFICATIONS.

(b) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (a), A LICENSED FANTASY CONTEST OPERATOR SHALL NOT BE REQUIRED TO NOTIFY THE BOARD OF ANY ACQUISITION BY AN INSTITUTIONAL INVESTOR

UNDER SUBSECTION (a) (1) OR (2) IF THE INSTITUTIONAL INVESTOR HOLDS LESS THAN 10% OF THE SECURITIES OR OTHER OWNERSHIP INTERESTS REFERRED TO IN SUBSECTION (a) (1) OR (2), THE SECURITIES OR INTERESTS ARE PUBLICLY TRADED SECURITIES AND ITS HOLDINGS OF SUCH SECURITIES WERE PURCHASED FOR INVESTMENT PURPOSES ONLY AND THE INSTITUTIONAL INVESTOR FILES WITH THE BOARD A CERTIFIED STATEMENT TO THE EFFECT THAT THE INSTITUTIONAL INVESTOR HAS NO INTENTION OF INFLUENCING OR AFFECTING, DIRECTLY OR INDIRECTLY, THE AFFAIRS OF THE LICENSED FANTASY CONTEST OPERATOR. HOWEVER, THE INSTITUTIONAL INVESTOR MAY VOTE ON MATTERS PUT TO THE VOTE OF THE OUTSTANDING SECURITY HOLDERS. NOTICE TO THE BOARD SHALL BE REQUIRED PRIOR TO COMPLETION OF ANY PROPOSED OR CONTEMPLATED CHANGE OF OWNERSHIP OF A LICENSED FANTASY CONTEST OPERATOR THAT MEETS THE CRITERIA OF THIS SECTION.

(c) FOR PURPOSES OF THIS SECTION, A CHANGE OF CONTROL OF A LICENSED FANTASY CONTEST OPERATOR WILL BE DEEMED TO HAVE OCCURRED WHEN A PERSON OR GROUP OF PERSONS ACQUIRES:

(1) MORE THAN 20% OF A LICENSED FANTASY CONTEST OPERATOR'S SECURITIES, ASSETS OR OTHER OWNERSHIP INTERESTS.

(2) MORE THAN 20% OF THE SECURITIES OR OTHER OWNERSHIP INTERESTS OF A CORPORATION OR OTHER FORM OF BUSINESS ENTITY THAT OWNS DIRECTLY OR INDIRECTLY AT LEAST 20% OF THE VOTING OR OTHER

SECURITIES OR OTHER OWNERSHIP INTERESTS OF THE LICENSED FANTASY CONTEST OPERATOR.

(3) ANY OTHER INTEREST IN A LICENSED FANTASY CONTEST OPERATOR WHICH ALLOWS THE ACQUIRER TO CONTROL THE LICENSED FANTASY CONTEST OPERATOR.

(d) A LICENSED FANTASY CONTEST OPERATOR SHALL NOTIFY THE BUREAU AND THE BUREAU OF LICENSING BY FILING A NOTIFICATION OF PROPOSED TRANSFER OF INTEREST FORM IMMEDIATELY UPON BECOMING AWARE OF ANY PROPOSED OR CONTEMPLATED CHANGE OF CONTROL OF THE LICENSED FANTASY CONTEST OPERATOR.

(e) PRIOR TO ACQUIRING A CONTROLLING INTEREST IN AN LICENSED FANTASY CONTEST OPERATOR, THE ACQUIRER SHALL FILE A PETITION IN ACCORDANCE WITH § 493A.4 (RELATING TO PETITIONS GENERALLY) REQUESTING BOARD APPROVAL OF THE ACQUISITION. THE PETITION MUST INCLUDE ALL OF THE FOLLOWING:

(1) A COPY OF ALL DOCUMENTS GOVERNING THE ACQUISITION.

(2) COMPLETED APPLICATIONS FOR THE ACQUIRING COMPANY, AS REQUIRED UNDER THIS CHAPTER, PRINCIPALS AND KEY EMPLOYEES.

(f) A PERSON OR GROUP OF PERSONS SEEKING TO ACQUIRE A CONTROLLING INTEREST IN A LICENSED FANTASY CONTEST OPERATOR SHALL PROMPTLY PROVIDE ANY ADDITIONAL INFORMATION REQUESTED BY THE BOARD AND BOARD STAFF AND COOPERATE WITH THE BUREAU IN ANY INVESTIGATIONS RELATED TO THE PETITION FILED UNDER SUBSECTION (c).

(g) A PERSON OR GROUP OF PERSONS MAY NOT ACQUIRE A CONTROLLING INTEREST IN A LICENSED FANTASY OPERATOR UNTIL THE PETITION REQUIRED UNDER SUBSECTION (C) HAS BEEN APPROVED. A PERSON OR GROUP OF PERSONS SEEKING TO ACQUIRE A CONTROLLING INTEREST IN A LICENSED FANTASY CONTEST OPERATOR AND THE LICENSED FANTASY CONTEST OPERATOR MAY ENTER INTO AN AGREEMENT OF SALE THAT IS CONTINGENT ON BOARD APPROVAL OF THE PETITION.

(h) THE REQUIREMENTS IN THIS SECTION DO NOT APPLY TO THE ACQUISITION OF A CONTROLLING INTEREST IN A LICENSED FANTASY CONTEST OPERATOR WHEN ALL OF THE FOLLOWING CONDITIONS ARE MET:

(1) THE ACQUIRER IS AN EXISTING LICENSED FANTASY CONTEST OPERATOR.

(2) THE EXISTING LICENSED FANTASY CONTEST OPERATOR HAS PROVIDED THE BUREAU AND THE BUREAU OF LICENSING NOTIFICATION AND A COPY OF ALL DOCUMENTS GOVERNING THE ACQUISITION AT LEAST 60 DAYS PRIOR TO THE ACQUISITION.

(3) AFTER REVIEWING THE DOCUMENTATION, THE BUREAU AND THE BUREAU OF LICENSING DETERMINE THAT THE FILING OF A PETITION IS NOT REQUIRED.

CHAPTER 1205a. FANTASY CONTESTS

Sec.

1205a.1. Fantasy contests generally.

1205a.2. Procedures to govern the conduct of fantasy contests.

1205a.3. Fantasy contest accounts.

1205a.4. Fantasy contest licensed operator duties.

1205a.5. Fantasy contest licensed operator restrictions.

1205a.6. Licensed gaming entities.

1205a.7. Record and data retention.

§ 1205a.1. Fantasy contests generally.

A fantasy contest licensee may offer a fantasy contest only under all of the following conditions:

(1) The value of all prizes or awards offered to winning participants is established and made known in advance of the fantasy contest.

(2) The value of the prize or award is not determined by the number of participants or the amount of fees paid by the participants.

(3) The winning outcome reflects the relative knowledge and skill of the participant.

(4) The winning outcome is not based on the score, point spread or performance of a single actual team or combination of teams, or solely on a single performance of an individual athlete or player in a single actual event.

(5) The winning outcome is based on statistical results accumulated from fully completed athletic sports contests or events, except that participants may be credited for statistical results accumulated in a suspended or shortened sports event which has been partially completed on account of weather or other natural or unforeseen event.

§ 1205a.2. Procedures to govern the conduct of fantasy contests.

(a) Each fantasy contest license holder shall establish and implement procedures governing the conduct of fantasy contests, as approved by the Board.

(b) The governing procedures must include, at a minimum, all of the following:

(1) A participant may not be eligible to engage in a fantasy contest by a licensed operator without first establishing a fantasy contest account, unless the fantasy contest is through a fantasy contest terminal in a licensed facility.

(2) Prior to a participant engaging in a fantasy contest or making a deposit in a fantasy contest account, the licensed operator shall verify the age, location and identity of the participant. A person under 18 years of age located in this Commonwealth may not engage in a fantasy contest by a licensed operator. If the participant is utilizing a fantasy contest terminal in a licensed facility, the participant shall be 21 years of age to engage in a fantasy contest.

(3) Each time a participant enters his registered fantasy account, he shall enter his unique username and password, or other means as approved by the Board, to verify his identity.

(4) Prior to accepting of a participant's entry fee for a specific fantasy contest, all Board-approved rules, prizes and award values must be posted on the specific fantasy contest homepage in a clear and decipherable manner.

(5) Provisions to prohibit a participant who is not a beginner from participating in beginner fantasy contests, except as provided by 4 Pa.C.S. § 325(4.1)(ii) (relating to conditions of licensure). If a participant who is not a beginner attempts to and successfully enters a beginner contest, **HIS CONTEST ENTRY SHALL BE VOIDED**, his account shall be temporarily suspended from **ALL** further fantasy contest participation for 15 days and the licensed operator shall ban the participant from further participation in beginner fantasy contests offered by the licensed operator.

(6) Provisions to prohibit a highly experienced player from participating in fantasy contests that exclude highly experienced players. In accordance with 4 Pa.C.S. § 325(4.2) if a participant who is a highly experienced player attempts to and successfully enters a fantasy contest for which he is ineligible, **HIS CONTEST ENTRY SHALL BE VOIDED**, his account shall be ~~temporarily~~ suspended ~~for 15 days~~ and the licensed operator shall ban the individual from further participation in fantasy contests offered by the licensed operator.

(7) Upon the creation of a fantasy contest account or the engagement of a fantasy contest terminal in a licensed facility, the licensed operator shall require the participant to identify any professional sports in which he currently engages in and which are subject to a fantasy contest and shall limit the participant's account from entering into contests of that sport.

(8) Allowing a person to restrict himself from entering a fantasy contest or accessing a fantasy contest account for a specific period of time as determined by the participant and implement procedures to prevent the person from participating in the licensed operator's fantasy contests.

(9) Allowing a person to restrict the total amount of deposits that the participant may pay to the licensed operator for a specific time period established by the participant and implement procedures to prevent the participant from exceeding the limit.

(10) Establishing procedures to monitor for and prevent the use of scripts.

(11) Establishing procedures determining when a fantasy contest locks and when no further entries or substitutions can be made. The procedures must require that the prize stipulated in the entry rules is available and can be demonstrated upon request of the Board.

(12) A process for a fantasy contest operator to receive and respond to participant complaints and reconciling a participant's fantasy contest account.

§ 1205a.3. Fantasy contest accounts.

~~(a) A participant in a fantasy contest by a licensed operator may only enter a fantasy contest if the participant has established an account with the fantasy contest operator~~ **A PARTICIPANT MAY ONLY ENTER A FANTASY CONTEST BY A LICENSED OPERATOR BY FIRST ESTABLISHING A FANTASY CONTEST ACCOUNT WITH THE FANTASY CONTEST OPERATOR, UNLESS THE FANTASY CONTEST IS THROUGH A FANTASY CONTEST TERMINAL IN A LICENSED FACILITY.**

(b) The licensed operator shall perform all of the following with respect to each participant account:

(1) Verify the age, location and identity of participants in a fantasy contest prior to accepting an entry in a fantasy contest by the participant account holder.

(2) Assure the participant has funds on account sufficient to pay the fantasy contest entry fee at the time of entry.

(3) Require that each time a participant enters his registered fantasy account, he shall enter his unique username and password to verify his identity.

(4) Provide the account holder the option to:

(i) Restrict the participant from entering a fantasy contest or accessing a fantasy contest account for a specific period of time as determined by the account holder.

(ii) Restrict the total amount of deposits that the participant may pay to the licensed operator for a specific time period established by the participant.

(iii) Restrict the total amount of entry fees that the participant may pay to the licensed operator for a specific time period established by the participant.

(iv) Restrict the number of fantasy contests the participant may enter for a specific time period as determined by the account holder.

(v) With respect to subparagraphs (i)-(iv), a participant may make his limits more restrictive at any time but any increase to these limits must become effective only after the time-period of the previous limit has expired and the player reaffirms the requested increase.

(5) Prevent unauthorized withdrawals from a fantasy contest account.

(6) Establish protocols for participants to withdraw funds whether the account is open or closed.

(7) Establish procedures for closing accounts and paying balances.

(8) Establish procedures for the disbursement of unclaimed prizes.

§ 1205a.4. Fantasy contest licensed operator duties.

(a) A licensed operator shall comply with the conditions of licensure in 4 Pa.C.S. §§ 301-342 (relating to fantasy contests) and the Board's regulations.

(b) A licensed operator shall continually monitor fantasy contests for conduct which violates the provisions and restrictions of 4 Pa.C.S. §§ 301-342 and the Board's regulations, and immediately take steps to report this conduct to the Bureau upon discovery.

(c) A licensed operator shall implement measures to ensure the confidentiality of participants' personal, financial and account information, and to prevent the public disclosure of this information except as provided by law.

(d) A licensed operator shall timely remit all taxes and assessments to the Department as provided for in 4 Pa.C.S. §§ 301-342.

(e) A licensed operator shall cooperate with the Board, the Bureau, the Department and law enforcement authorities performing any function or duties related to monitoring, investigating or enforcing 4 Pa.C.S. §§ 301-342 or regulations relating to fantasy contest-related activities.

(f) A licensed operator shall permit access to the licensee's premises and fantasy contest terminal premises used in connection with the conduct of fantasy contests for the Board, the Bureau, the Department and the Pennsylvania State Police to facilitate the ability to perform regulatory oversight and law enforcement functions.

(g) A licensed operator shall maintain a record of all participant complaints along with a description of how the complaint was resolved and reconciled, which shall be made available to the Board upon request.

(h) A licensed operator shall submit to the Bureau a record of any suspicious transactions as provided in 4 Pa.C.S. § 325(4.5) (relating to conditions of licensure) within 2 business days of having reason to know that a suspicious transaction has occurred.

(i) Each licensed operator shall maintain an office, place of business, or registered agent for service of process in this Commonwealth and shall file with the Board the address and contact information for a person or representative in this Commonwealth authorized to receive service of process, documents and requests issued by the Board. If the Board makes a request for information or delivers documents or a notice to that address, it shall constitute receipt of those documents or requests by the licensed operator or applicant. If the Board

will require access to the database for the licensed operator, this information shall be kept and be made available to the Board at the Pennsylvania office, place of business, or registered agent address, or at the offices of the Board.

§ 1205a.5. Fantasy contest licensed operator restrictions.

A licensed operator shall not do any of the following:

(1) Permit an individual under 18 years of age in this Commonwealth to participate in a fantasy contest.

(2) Permit an individual under 21 years of age to participate in a fantasy contest which is conducted within a licensed facility.

(3) Offer a fantasy contest based in whole or in part on collegiate or high school events or players.

(4) Permit a participant to enter a fantasy contest prior to establishing a fantasy contest account, unless the licensed operator is also a licensed gaming entity and the participant enters the fantasy contest through a fantasy contest terminal located within the licensed gaming entities licensed facility.

(5) Establish a fantasy contest account for a person who is not an individual.

(6) Alter the rules established for a fantasy contest after a participant has entered the fantasy contest.

(7) Issue credit to a participant to establish or fund a fantasy contest account.

(8) Permit the use of scripts by participants. A licensed operator shall implement technologies to prevent the use of scripts.

(9) Knowingly market to a participant during a time period in which the participant has self-excluded from the licensed operator's fantasy contests.

(10) Knowingly allow a self-excluded person to collect, keep or retain a prize or award.

(11) Knowingly accept a deposit or entry in excess of a limit established by a participant for the specific time period established by the participant.

(12) Share confidential information that could affect fantasy contest play with third parties until the information is made publicly available.

(13) Knowingly permit a principal, an employee of a licensed operator or a relative living in the same household of an employee, or a principal of a licensed operator to become a participant in a fantasy contest offered by any licensed operator in which the licensed operator offers a prize or award.

§ 1205a.6. Licensed gaming entities.

(a) A licensed gaming entity which holds a fantasy contest license may petition the Board for authority to place and operate fantasy contest terminals within the licensed gaming entity's licensed facility.

(b) A licensed gaming entity may not place a fantasy contest terminal on its approved gaming floor. The Board's Executive Director will approve the placement of terminals within the licensed facility.

(c) A participant entering a fantasy contest through a fantasy contest terminal is not required to establish an account with the licensed gaming entity prior to entering the fantasy contest.

(d) A licensed gaming entity which offers a fantasy contest through a fantasy contest terminal may offer slot machine promotional play or table game match play to a participant who is at least 21 years of age as a prize or award or for participating in a fantasy contest conducted by the licensed gaming entity, as approved by the Board.

(e) A licensed gaming entity which obtains authorization from the Board to conduct fantasy contests through fantasy contest terminals is subject to all requirements and restrictions, except for those relating to prior account establishment, in this chapter and Chapters 1206a-1209a.

§ 1205a.7. Record and data retention.

(a) A licensed operator shall retain account information for a 5-year period, including records of deposits into and out of a fantasy contest account, winnings, payouts and withdrawals, and record of participant play of fantasy contests.

(b) A licensed operator shall retain records of each fantasy contest conducted by the licensed operator for a 5-year period.

(c) A licensed operator shall retain copies of all advertisements for at least 2 years from the date of the last use of the advertisement and shall retain records to identify where advertisements were placed.

CHAPTER 1206a. ACCOUNTING AND INTERNAL CONTROLS

Sec.

1206a.1. Fantasy contest accounting and internal controls.

§ 1206a.1. Fantasy contest accounting and internal controls.

(a) At least 45 days prior to commencing fantasy contests under this subpart, a fantasy contest licensee or an applicant for a fantasy contest license shall submit to the Board for approval all internal control systems and audit protocols for the fantasy contest operations.

(b) An applicant for a fantasy contest license who is conducting fantasy contests in this Commonwealth prior to the

effective date of 4 Pa.C.S. §§ 301-342 (relating to fantasy contests) shall submit a copy of its internal control systems and audit protocols for the fantasy contest operations simultaneously with its application for a fantasy contest license.

(c) A fantasy contest licensed operator's internal controls and audit protocols must include all of the following:

(1) Provide for reliable records, accounts and reports of any financial event that occurs in the conduct of fantasy contests, including reports to the Board related to fantasy contests.

(2) Provide for accurate and reliable financial records related to the conduct of fantasy contests, including by or through participants located in this Commonwealth.

(3) Establish procedures and security for the recordation of wagering, winnings, and fantasy contest adjusted revenue and taxation.

(4) Establish procedures and security standards for the maintenance of fantasy contests and associated equipment used in connection with the conduct of fantasy contests.

(5) Establish procedures and rules to govern the conduct of fantasy contests and the responsibility of employees related to fantasy contest.

(6) Establish procedures for the collection, recording and deposit of revenue from the conduct of fantasy contests by or through participants located in this Commonwealth.

(7) Establish reporting procedures and records required to ensure that all money generated from fantasy contests by or through participants located in this Commonwealth is accounted for.

(8) Ensure that all functions, duties and responsibilities related to fantasy contests are appropriately segregated and performed in accordance with sound financial practices by qualified employees.

(9) Ensure the confidentiality of participant's personal and financial information.

(10) Ensure the segregation of participant funds from operational funds in separate accounts and maintain a reserve in the form of cash, cash equivalents, security deposits held by banks and processors, an irrevocable letter of credit, payment processor reserves and receivables, a bond or a combination thereof in an amount sufficient to pay all prizes and awards offered to winning participants.

(d) The submissions required under subsections (a) and (b) must include a detailed description of the fantasy contest license operator's administrative and accounting procedures related to fantasy contests, including its written system of

internal controls. Each written system of internal controls must include all of the following:

(1) An organizational chart depicting appropriate functions and responsibilities of employees involved in fantasy contests.

(2) A description of the duties and responsibilities of each position shown on the organizational chart.

(3) A detailed narrative description of the administrative and accounting procedures to satisfy the requirements in 4 Pa.C.S. § 325 (relating to conditions of licensure).

(4) The record retention policy of the licensed operator.

(5) The procedure to be utilized to ensure that money generated from the conduct of fantasy contests is safeguarded, including mandatory counting and recording procedures.

(6) Procedures to ensure that recorded accountability for assets is compared with actual assets at intervals required by the Board and appropriate action is taken with respect to discrepancies.

(7) Procedures to be utilized by an employee of a licensed operator in the event of a malfunction of a fantasy contest terminal or other equipment used in the conduct of fantasy contests.

(8) Procedures to be utilized by a licensed operator to prevent ~~minors~~ **INDIVIDUALS UNDER THE AGE OF 18** or fantasy contest self-excluded individuals from entering fantasy contests.

(9) Other items the Board may request in writing to be included in the internal controls.

(10) A statement signed by the chief financial officer of the proposed licensed operator or other competent person and the chief executive officer of the proposed licensed operator or other competent person attesting that the officer believes, in good faith, that the system satisfies the requirements in 4 Pa.C.S. § 325.

(e) Prior to authorizing a licensed operator to begin the conduct of fantasy contests, the Board will review the system of internal controls and audit protocols submitted under subsections (a) and (b) to determine whether it conforms to the requirements in this chapter and whether it provides adequate and effective controls for the conduct of fantasy contests.

(f) If a licensed operator intends to make a change or amendment to its system of internal controls, it shall submit the change or amendment electronically to the Bureau of Gaming Operations in a manner prescribed by the Bureau of Gaming Operations. The licensed operator may implement the change or amendment upon receipt of approval or on the 30th calendar day

following the filing of a complete submission unless the fantasy contest licensee receives written notice tolling the change or amendment in accordance with subsection (g) or written notice from the Board's Executive Director rejecting the change or amendment.

(g) If during the 30-day review period in subsection (f), the Bureau of Gaming Operations preliminarily determines that a procedure in a submission contains an insufficiency likely to negatively affect the integrity of fantasy contests or the control of revenue generated from fantasy contests, the Bureau of Gaming Operations, by written notice to the licensed operator, will:

(1) Specify the nature of the insufficiency and, when possible, an acceptable alternative procedure.

(2) Direct that the 30-calendar day review period in subsection (f) be tolled and that any internal controls at issue not be implemented until approved under subsection (i).

(h) ~~Examples of submissions that may contain an insufficiency likely to negatively affect the integrity of fantasy contests include the following~~ **A SUBMISSION UNDER THIS SECTION SHALL BE DEEMED INSUFFICIENT AND LIKELY TO NEGATIVELY AFFECT THE INTEGRITY OF FANTASY CONTESTS IF THE SUBMISSION:**

(1) ~~Submissions that fail~~ **FAILS** to provide information sufficient to permit the review of fantasy contests.

(2) ~~Submissions that fail~~ **FAILS** to provide for the segregation of incompatible functions so that no employee is in a position to commit an error or perpetrate a fraud and to conceal the error or fraud in the normal course of the employee's duties.

(3) ~~Submissions that do not~~ **DOES NOT** include forms or other materials referenced in the submission or required under 4 Pa.C.S. §§ 301-342 or this subpart.

(4) ~~Submissions that would~~ **WOULD** implement operations or accounting procedures not authorized by 4 Pa.C.S. §§ 301-342 or this subpart.

(i) When a change or amendment has been tolled under subsection (g), the licensed operator may submit a revised change or amendment within 30 days of receipt of the written notice from the Bureau of Gaming Operations. The licensed operator may implement the revised change or amendment upon receipt of written notice of approval from the Board's Executive Director or on the 30th calendar day following the filing of the revision unless the licensed operator receives written notice tolling the change or amendment in accordance with subsection (g) or written notice from the Board's Executive Director rejecting the change or amendment.

CHAPTER 1207a. ADVERTISING

Sec.

1207a.1. Fantasy contest advertising.

§ 1207a.1. Fantasy contest advertising.

(a) Advertisements related to fantasy contests used by a licensed operator through any form of media, Internet application, or fantasy contest terminal or its agent may not do ~~all~~ **ANY** of the following:

(1) Contain false or misleading information. An advertisement will be considered misleading if it makes representations about average winnings without equally prominently representing the average net winnings of all players and that not all players will achieve the results referenced.

(2) Portray participation in sporting events by minors (other than professional athletes who may be minors), students, schools, colleges or their settings.

(3) Represent endorsements by minors, college athletes, colleges or college athletic associations.

(4) Appear in a publication that is aimed exclusively or primarily at minors, or individuals attending an elementary or secondary school or school-related event.

(5) Fail to disclose conditions or limiting factors associated with the advertisement.

(b) A licensed operator may not directly market to a person on the Board's fantasy contest self-exclusion list.

(c) Any advertisement directed specifically towards participants in the Commonwealth shall include a statement providing the following: "If you or someone you know has a gambling problem, help is available. Call (1-800-GAMBLER)."

(d) A licensed operator or fantasy contest terminal operator or its agent shall discontinue as expeditiously as possible the use of a particular advertisement in this Commonwealth or directed to residents in this Commonwealth upon receipt of written notice that the Board's Office of Compulsive and Problem Gaming has determined that the use of the particular advertisement in this Commonwealth could adversely impact the public or the integrity of fantasy gaming.

CHAPTER 1208a. COMPULSIVE AND PROBLEM GAMING

Sec.

1208a.1. Signage requirements.

1208a.2. Problem gambling information.

§ 1208a.1. Signage requirements.

(a) A fantasy contest licensee shall conspicuously post notices on the licensee's web site, including on the account registration and access page, a statement providing the

following: 'If you or someone you know has a gambling problem, help is available. Call (1-800-GAMBLER).'

(b) The operator of any fantasy contest terminal shall conspicuously post notice on the front of the fantasy contest terminal and notices on the opening screen and on an account registration or access screen, if applicable, a statement providing the following: 'If you or someone you know has a gambling problem, help is available. Call (1-800-GAMBLER).'

§ 1208a.2. Problem gambling information.

A licensed operator shall make available through its web site a Responsible Gaming page, as approved by the Board's Office of Compulsive and Problem Gaming (Office), containing links to compulsive and problem gaming treatment information and provider sites and materials provided by the Office regarding compulsive and problem gaming.

CHAPTER 1209a. FANTASY CONTEST SELF-EXCLUSION

Sec.

1209a.1. Fantasy contest self-exclusion definitions.

1209a.2. Fantasy contest self-exclusion procedure.

1209a.3. Fantasy contest self-exclusion list.

1209a.4. Duties of fantasy contest licensees.

1209a.5. Removal from fantasy contest self-exclusion list.

§ 1209a.1. Fantasy contest self-exclusion definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Fantasy contest activity—The play of fantasy contests at any location in this Commonwealth.

Fantasy contest related activity—An activity related to the play of fantasy contests including creating a player account, funding a player account or withdrawing funds on account.

Fantasy contest self-excluded person—A person whose name and identifying information is included, at the person's request, on the fantasy contest self-exclusion list maintained by the Board.

Fantasy contest self-exclusion list—A list of names and identifying information of persons who, under this chapter, have voluntarily agreed to be excluded from the conduct of fantasy contests for a period of time as selected by the person.

Winnings—Any money or thing of value received from, or owed by, a fantasy contest licensee as a result of a fully executed fantasy contest transaction.

§ 1209a.2. Fantasy contest self-exclusion procedure.

~~(a) A person may request to be self-excluded from fantasy contest activities in this Commonwealth.~~

~~(b)~~ (a) A person requesting to be self-excluded from fantasy contest activity shall submit a completed Request for Voluntary Self-Exclusion from Fantasy Contest Activities Form to the Board by one of the following methods:

(1) Electronically on the Board's web site.

(2) In person by scheduling an appointment at the Board's Harrisburg office, one of the Board's other offices or at a licensed facility. To make an appointment, a person may contact the Office of Compulsive and Problem Gaming at (717) 346-8300 or problemgambling@pa.gov.

~~(e)~~ (b) When requesting fantasy contest self-exclusion, the person shall do all of the following:

(1) Provide all of the following information:

(i) The individual's complete name, including any aliases or nicknames.

(ii) Current address.

(iii) Telephone number.

(iv) E-mail address.

(v) Age.

(vi) Date of birth.

(vii) ~~State of issue of driver's license and driver's license number.~~ SOCIAL SECURITY NUMBER, OR THE LAST 4 DIGITS OF THE INDIVIDUAL'S SOCIAL SECURITY NUMBER, WHEN

VOLUNTARILY PROVIDED IN ACCORDANCE WITH SECTION 7 OF THE PRIVACY ACT OF 1974 (5 U.S.C.A. § 552A) .

(2) Identify the period of time in years for which the individual seeks to self-exclude, which shall not be less than 1 year.

(3) Agree that, during any period of voluntary self-exclusion, the person may not collect any winnings or recover any losses resulting from any fantasy contest activity.

(4) Agree to release, indemnify, hold harmless and forever discharge the Commonwealth, the Board and all fantasy contest licensees from claims, damages, losses, expenses or liability arising out of, by reason of or relating to the fantasy contest self-excluded person or to any other party for any harm, monetary or otherwise, which may arise as a result of one or more of the following:

(i) The failure of a fantasy contest licensee to withhold fantasy contest privileges from or restore fantasy contest privileges to a fantasy contest self-excluded person.

(ii) Otherwise permitting or not permitting a fantasy contest self-excluded person to engage in fantasy contest activity while on the list of fantasy contest self-excluded persons.

(iii) Confiscation of the individual's winnings.

(5) Agree to other conditions established by the Board.

(d) A link to the form to be used to request placement on the fantasy contest self-exclusion list must be available on the responsible gaming webpage of each fantasy contest licensed operator's web site.

(e) THE INFORMATION PROVIDED IN SUBSECTION (B) SHALL BE UPDATED BY THE FANTASY CONTEST SELF-EXCLUDED PERSON WITHIN 30 DAYS OF A CHANGE. UPDATED INFORMATION SHALL BE SUBMITTED ON A CHANGE OF INFORMATION FORM TO THE FOLLOWING ADDRESS, OR SUBMITTED ONLINE IN THE "UPDATE MY INFORMATION" WEBFORM ON THE BOARD'S WEBSITE. A COPY OF THE FORM CAN BE OBTAINED BY CALLING THE OPCG AT (717) 346-8300, BY E-MAIL AT PROBLEMGAMBLING@PA.GOV, OR BY WRITING TO:

PENNSYLVANIA GAMING CONTROL BOARD
OFFICE OF COMPULSIVE AND PROBLEM GAMBLING
P. O. BOX 69060
HARRISBURG, PA 17106-9060

§ 1209a.3. Fantasy contest self-exclusion list.

(a) The Board will maintain the official fantasy contest self-exclusion list and shall make the fantasy contest self-exclusion list available to each licensed operator by means of the Board's self-exclusion system.

(b) The information made available to licensed operators by the Board will include all of the following information concerning a person who has been added to the fantasy contest self-exclusion list:

(1) The individual's complete name, including any aliases or nicknames.

(2) Current address.

(3) Telephone number.

(4) E-mail address.

(5) Age.

(6) Date of birth.

(7) ~~State of issue of driver's license and driver's license number.~~ SOCIAL SECURITY NUMBER, OR THE LAST 4 DIGITS OF THE INDIVIDUAL'S SOCIAL SECURITY NUMBER, WHEN VOLUNTARILY PROVIDED IN ACCORDANCE WITH SECTION 7 OF THE PRIVACY ACT OF 1974 (5 U.S.C.A. § 552A).

(c) A licensed operator shall establish procedures to ensure that its database of self-excluded persons is updated to correspond with the Board's current fantasy contest self-exclusion list.

(d) A licensed operator shall maintain a copy of the fantasy contest self-exclusion list and establish procedures to ensure that the copy of the fantasy contest self-exclusion list is updated at least every 2 business days with the information made

available to licensed operators by means of the Board's self-exclusion system and that all appropriate employees and agents of the licensed operator are notified of the updates to the fantasy contest self-exclusion list.

(e) Information furnished to or obtained by the Board under this chapter will be deemed confidential and will not be disclosed except in accordance with this chapter and 4 Pa.C.S. § 325(6)(ii) (relating to conditions of licensure).

(f) Except as provided in 4 Pa.C.S. § 325(6)(ii), licensed operators and employees or agents thereof may not disclose the name of, or any information about, a person who has requested fantasy contest self-exclusion to anyone other than employees and agents of the licensed operator whose duties and functions require access to the information.

(g) A fantasy contest self-excluded person may not collect in any manner or in any proceeding any winnings or recover any losses arising as a result of any gaming activity for the entire period of time that the person is on the fantasy contest self-exclusion list.

(h) Winnings incurred by a fantasy contest self-excluded person shall be remitted to the Board to support compulsive and problem gambling programs of the Board.

(i) For the purposes of this section, winnings issued to or redeemed by a fantasy contest self-excluded person will be

presumed to constitute winnings subject to remittance to the Board.

§ 1209a.4. Duties of fantasy contest licensees.

(a) A fantasy contest licensee shall do all of the following:

(1) Deny fantasy contest related activities to a fantasy contest self-excluded person.

(2) Ensure that a fantasy contest self-excluded persons may not establish an account or deposit money in an established account while the person is on the fantasy contest self-exclusion list.

(3) Retain a record of any attempts of a fantasy contest self-excluded person to engage in fantasy contest related activity and to provide the record to the Board's Office of Compulsive and Problem Gaming (Office) in a form and manner as approved by the Office. The record must include the name of the self-excluded person, the date of the occurrence and a description of the attempted fantasy contest related activity.

(4) Notify the Office within 24 hours of identifying that an individual on the self-exclusion list has gained access to the individual's account or has entered a fantasy contest.

(5) Make available to patrons materials explaining the fantasy contest self-exclusion program.

(b) The list of ~~video-gaming~~ **FANTASY CONTEST** self-excluded persons is confidential, and any distribution of the list to an unauthorized source constitutes a violation of 4 Pa.C.S. §§ 301-342 (relating to fantasy contests).

§ 1209a.5. Removal from fantasy contest self-exclusion list.

An individual who has elected to self-exclude from fantasy contest related activity will remain on the self-exclusion list for the duration of the period selected and will be removed from the fantasy contest self-exclusion list only upon the conclusion of the period of self-exclusion.



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March 23, 2021

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David Sumner, Executive Director
Independent Regulatory Review Commission
333 West Market Street, 14th Floor
Harrisburg, PA 17120

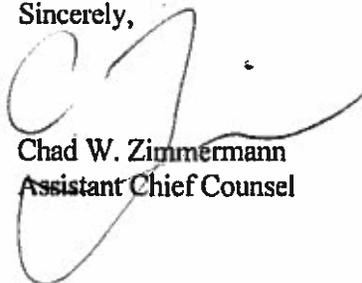
RE: PGCB Final Form Rulemaking #125-226: Casino Simulcasting; Fantasy Contests

Dear Mr. Sumner:

Enclosed with this letter please find a copy of a final form rulemaking for review by the Independent Regulatory Review Commission ("Commission") from the Pennsylvania Gaming Control Board ("Board"). This final form rulemaking sets forth the regulatory framework for two forms of gaming, Casino Simulcasting and Fantasy Contests, in accordance with the regulatory authority provisions of the Pennsylvania Race Horse Development and Gaming Act of 2004, as amended. This final form rulemaking was adopted by the Board on March 17, 2021. This regulation was previously adopted by the Board as a proposed rulemaking on October 2, 2019 and published in the Pennsylvania Bulletin on December 21, 2019. No public comments were received. The Commission issued comments, and all comments were addressed in the regulation and/or preamble.

This final form rulemaking was hand-delivered to the Majority Chair and Minority Chair of the House Gaming Oversight Committee, and was e-delivered to the Legislative Reference Bureau who in turn delivered it to the Majority Chair and Minority Chair of the Senate Community, Economic and Recreational Development Committee. Confirmation of the deliveries is contained in the final form rulemaking packet.

Sincerely,



Chad W. Zimmermann
Assistant Chief Counsel

ENCLOSURE

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

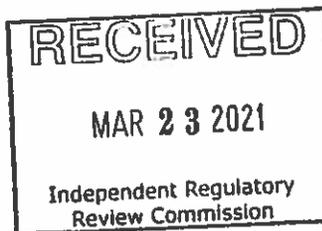
I.D. NUMBER: 125-226

SUBJECT: Casino Simulcasting; Fantasy Contests

AGENCY: Pennsylvania Gaming Control Board

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - With Revisions Without Revisions



FILING OF REGULATION

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
		<u>HOUSE COMMITTEE - Gaming Oversight</u>
3/23/21		MAJORITY CHAIR <u>Rep. Susan C. Helm</u>
3/23/21		MINORITY CHAIR <u>Rep. Scott Conklin</u>
		<u>SENATE COMMITTEE - Community, Economic and Recreational Development</u>
3/23/21		MAJORITY CHAIR <u>Sen. John T. Yudichak</u>
3/23/21		MINORITY CHAIR <u>Sen. Amanda M. Cappelletti</u>
3/23/21		<u>INDEPENDENT REGULATORY REVIEW COMMISSION</u> David Sumner, via e-Delivery
		<u>ATTORNEY GENERAL (for Final Omitted only)</u>
		<u>LEGISLATIVE REFERENCE BUREAU (for Proposed only)</u>

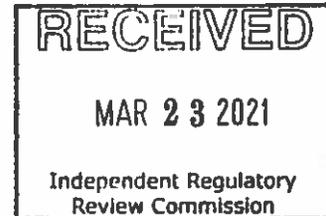
Stephen Hoffman

From: Beaver, Hank III <HBeaver@pahouse.net>
Sent: Tuesday, March 23, 2021 11:58 AM
To: Zimmermann, Chad (PGCB)
Cc: Posavec, Cheryl (PGCB)
Subject: RE: e-Delivery of PGCB Final Form Rulemaking #125-229

I have received and am able to access all four of the documents. Thank you!

Sincerely,

Hank Beaver
Executive Director, Gaming Oversight
Rep. Scott Conklin, Democratic Chairman
Mobile – 717-810-7677



From: Zimmermann, Chad (PGCB) <cwzimmerma@pa.gov>
Sent: Tuesday, March 23, 2021 11:55 AM
To: Beaver, Hank III <HBeaver@pahouse.net>
Cc: Posavec, Cheryl (PGCB) <cposavec@pa.gov>
Subject: e-Delivery of PGCB Final Form Rulemaking #125-229
Importance: High

Mr. Beaver:

This email serves as electronic delivery of final form rulemaking #125-229 from the Pennsylvania Gaming Control Board, relating to Interactive Gaming, based upon the unavailability of in-person delivery. Attached to this email are the following documents:

1. Regulatory Analysis Form (PDF format)
2. Face Sheet signed Chairman Barasch and Chief Counsel Sherman (PDF format)
3. Preamble (PDF format)
4. Annex A text (PDF format)

Please reply to this e-mail confirming receipt on behalf of Minority Chair, Representative Scott Conklin, as pursuant to current operating procedures, confirmation of e-Delivery must be shown to IRRC with the final transmittal sheet.

Chad W. Zimmermann, Esq.
Assistant Chief Counsel III
Office of Chief Counsel
Pennsylvania Gaming Control Board
303 Walnut Street, 5th Floor
Harrisburg, PA 17101
(717) 346-8300 (phone)
(717) 346-8350 (fax)

cwzimmerma@pa.gov

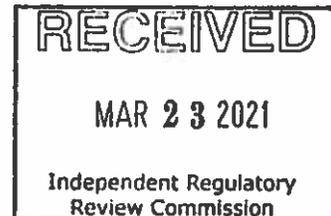
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Stephen Hoffman

From: Pitzer, Scot <spitzer@pasen.gov>
Sent: Tuesday, March 23, 2021 10:54 AM
To: Zimmermann, Chad (PGCB)
Subject: RE: e-Delivery of PGCB Final Form Rulemaking #125-229

Received. Scot

Scot A. Pitzer
Executive Director
Community, Economic & Recreational Development Committee
Senator John Yudichak – Chair
State Capitol
717.705.7734 (o)



From: Zimmermann, Chad (PGCB) <cwzimmerma@pa.gov>
Sent: Tuesday, March 23, 2021 10:50 AM
To: JT.Gillen@pasenate.com; Pitzer, Scot <spitzer@pasen.gov>
Cc: Posavec, Cheryl (PGCB) <cposavec@pa.gov>
Subject: e-Delivery of PGCB Final Form Rulemaking #125-229
Importance: High

Ⓞ CAUTION : External Email Ⓞ

Mr. Gillen and Mr. Pitzer:

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4. Annex A text (PDF format)

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Chad W. Zimmermann, Esq.
Assistant Chief Counsel III
Office of Chief Counsel
Pennsylvania Gaming Control Board
303 Walnut Street, 5th Floor
Harrisburg, PA 17101
(717) 346-8300 (phone)
(717) 346-8350 (fax)
cwzimmerma@pa.gov

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Stephen Hoffman

From: Gillen, JT <JT.Gillen@pasenate.com>
Sent: Tuesday, March 23, 2021 11:40 AM
To: Zimmermann, Chad (PGCB); spitzer@pasen.gov
Cc: Posavec, Cheryl (PGCB)
Subject: RE: e-Delivery of PGCB Final Form Rulemaking #125-229

Thank you Chad,

I can confirm Receipt.

Jt Gillen
Legislative Director
Pronouns: He/Him/His
Office of Senator Amanda Cappelletti
183 Main Capitol Building
Cell – 610 390 5529
Harrisburg and all Scheduling Requests – 717 787 5544
District and All Constituent Services – 610 768 4200



From: Zimmermann, Chad (PGCB) <cwzimmerma@pa.gov>
Sent: Tuesday, March 23, 2021 10:50 AM
To: Gillen, JT <JT.Gillen@pasenate.com>; spitzer@pasen.gov
Cc: Posavec, Cheryl (PGCB) <cposavec@pa.gov>
Subject: e-Delivery of PGCB Final Form Rulemaking #125-229
Importance: High

■ EXTERNAL EMAIL ■

Mr. Gillen and Mr. Pitzer:

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2. Face Sheet signed Chairman Barasch and Chief Counsel Sherman (PDF format)
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4. Annex A text (PDF format)

Please reply to this e-mail confirming receipt on behalf of Majority Chair, Senator John Yudichak and Minority Chair, Senator Amanda Cappelletti, as pursuant to current operating procedures, confirmation of e-Delivery must be shown to IRRC with the final transmittal sheet.

Chad W. Zimmermann, Esq.
Assistant Chief Counsel III
Office of Chief Counsel
Pennsylvania Gaming Control Board

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Harrisburg, PA 17101
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