

Comments Received from Jeff Johnson on November 20, 2020

Agency changes/responses to comments in ~~Red~~.

Section 179-10-2. I would change the section heading to “Definitions”. Also, the definitions should be alphabetized. For example, the definition of “Act” should be at 2.2. instead of 2.4. Another I found was “Prohibited interactive gaming participant” should be at 2.36. There may be others. ~~Definitions have been alphabetized per request.~~

In subsection 2.46 the acronym for “random number generator” is misplaced. The definition should read in pertinent part: ...where a random number generator (RNG) determines the outcome.... ~~Agree.~~ ~~Revised.~~

Section 179-10-5 at subsection 5.7.3.a I am curious about how the term of 60 days was decided upon? ~~Industry Standard.~~

Section 179-10.6 at subsection 6.23 I believe the phrase “pursuant to this section” is unnecessary and should be eliminated. ~~Agree.~~ ~~Revised.~~

Section 179-10-7 as subsection 7.2.2 the word “following” is used twice. I would delete it the first time in the phrase so the phrase would read: **“Encrypt all of the information contained in an electronic patron file including the following:** ~~Agree.~~ ~~Revised.~~

Same section at subsection 7.3 and 7.3.3. At 7.3 the rule says a patron may have only one interactive account and in 7.3.3 it says accounts shall be distinct from any other account number the patron may have established with the operator. If only one account is permitted, would the number be distinct by being the only account? This seems confusing and may need to be rewritten. ~~Operators can have multiple MSP’s. We deleted MSP from 7.3.3. because it is possible for MSP’s to offer SW, iGaming under one account. Hopefully revisions clarifies.~~

Same section at subsection 7.4.7 the word “licensee” is used. Is this the operator/MSP? If so it might be best to use consistent language and change licensee to operator or MSP. ~~Agree.~~ ~~Revised.~~

Same section at subsection 7.6 if a patron is only permitted to withdrawal “any remaining balance in the account up to the amount of the deposit...” what if the balance is greater than the amount of the deposit? How are those additional funds dealt with? In subdivision 7.7.3 the rule mentions a “deposit account” does this term need to be defined? ~~Funds over the deposit may be withdrawn, but shall be returned to the original account that funded the gaming account.~~

Section 179-10-8 at subsection 8.12.2 this entire subsection is confusing. At 8.12.2 it would seem that that sentence should mention something about interruption of play since all that follows deals with that. Also, twice in that subsection the rule refers to an “approved period of time”. Should this timeframe not be spelled out in the rule? If someone is reading the rule they would have not idea about what that amount of time would be. Finally, in 8.12.2.c the sentence ends with the word “and” but nothing follows. The “and” needs to be deleted and a period needs inserted.

~~8.12.2 No change. Period of Time is in the MSP internal control and/or terms and conditions, which are approved by the Lottery. So it really is an approved period of time set by the MSP’s.~~

8.12.12(c) revised.

Same section at 8.18 my question is can the notice act as a request for approval or must they be two separate actions? *One action. Added language for clarification.*

Section 179-10-9 at 9.4.7 do we need to define the term “Vigorous”? At 11.9 this entire subsection appears to be out of place to me. *Definition not added at this time. Customary term and the definition is contained in the rules of the games that use it. Additionally, no change on location of 11.9 as it is its own subsection.*

Section 179-10-12 at subsection 12.3 I would rewrite that to read as follows:

“12.3. Progressive jackpot software must be approved by the Commission. The submission for Commission approval of progressive jackpot software to be on an interactive gaming system shall include the following:

12.3.1. A description of the software controlling the interactive progressive jackpot. *Agree. Changes made.*

The way it is written it seems to suggest that the Commission needs to review the actual software. Is that your intent? *All software is approved by the Commission.*

At 12.4 the rule refers to a form. It is standard practice to list the web address where this form may be obtained. Please add that. *Not the Lottery’s practice at this time to include a link in the rule. Forms are provided and made available by the Lottery on a case by case basis as requests are received.*

Section 179-10-14 at subsection 14.7 there is a reference to a Content Delivery Network. This term is undefined in the rule. We should add a definition. *Added definition for Content Delivery Network.*

Section 179-10-15 as subsection 15.1.3 there is a reference to Lottery Staff but in subsection 16.2.1. there is a reference to Commission staff. Are these the same? If they are we should use a consistent term. If they are not we may want to consider defining the difference between them. *Changed all inconsistent terms to Director, which is defined.*

Section 179-10.16 at subsection 16.2.3 we refer to the Director as the Lottery Director. This is the only reference I can find in the rule to a Lottery Director. The terms should be consistent. *Same.*

Section 179-10-18 – the section heading only refers to “temporary” approvals but the content goes beyond temporary. Please consider reworking the section heading. *Removed temporary and kept interim.*

Same section at subsection 18.5 the license fee is \$100,000 and in 18.6 there is an application fee of \$10,000. Are these the same thing? If so, use consistent terminology and check the amounts. Should they not both be \$100,000 as per the statute? *MSP Fee is \$100,000; Supplier Fee is \$10,000. Fee refers to different licenses.*

Same section at subsection 18.7 should it not read at the end of the sentence: "...shall comply with these rules **and the Act.**?" Agree. Changed.

Section 179-10-19 at subsection 19.1 there is no reference to adherence to the laws of this state. Should that not also be included? Agree. Language was added.

Same section subsection 19.3 seems to refer to a civil penalty. The subsection could be better written to clearly state it is a civil penalty and it may be in addition to any criminal penalties set forth in WVC §29-22E-20. Agree. Language was added to clarify.