



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

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Office of West Virginia  
Secretary Of State

**NOTICE OF PUBLIC COMMENT PERIOD**

AGENCY: Lottery Commission TITLE-SERIES: 179-09

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: West Virginia Lottery Sports Wagering Rule

CITE STATUTORY AUTHORITY: W. Va. Code 29-22D-4(c), 29-22A-1, et seq., and 29A-3-15

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/03/2022 5 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: W. Brian Nickerson

ADDRESS: 900 Pennsylvania Avenue  
900 Pennsylvania Avenue

EMAIL: bnickerson@wvlottery.com

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

The West Virginia Sports Wager Rule sets forth the guidelines for regulating the operation of legal sports wagering in West Virginia. Additionally, the legislative rule sets forth the qualifications for licensure of several license types that operate within the Sports Wagering space.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

1) Amend current §179 CSR 9-2 (Terms), which is the definition section, to add a definition for Daily Fantasy Sports (DFS). DFS is set forth as an exclusion in W. Va. Code §29-22D-3(22)(G) to the definition of West Virginia Lottery Sports Wagering and is currently unregulated under West Virginia law. However, in recent years, companies have been operating in West Virginia unregistered with the Secretary of State, and offering proposition parlay sports wagers as a party of their DFS product based upon a vague definition of DFS as set forth in a July 7, 2016 WV Attorney General Opinion. The companies argue that this product meets the definition of DFS and thus is not a sports wager. The Lottery disagrees. The proposed amendment will include the definition of DFS as adopted by the Attorney General in the July 7, 2016 opinion and will add further language effectively closing this presumed gap in the law. Such added language will likely require DFS games to be games that permit players to play against other players, and not the company offering the wager, or, the house. Additional other language may be used to characterize the true nature of DFS, such as team management, etc. This is a quickly developing game space and other jurisdictions are dealing with this issue in a similar manner.

2) Amend current §179-9 to allow Marketing Affiliates of Sports Wagering Operators and Management Service Providers (MSP) to register as Registrants and pay \$100 per year, rather than the current process, which requires Marketing Affiliates to be licensed as suppliers and pay \$1,000. This amendment will bring our sports wagering rule consistent with our interactive wagering rule, which allows Marketing Affiliates to be registrants and not suppliers. The volume of Marketing Affiliates that continue to apply for licensure in West Virginia could not have been anticipated at the time the Lottery's initial Sports Wagering rule was effective and places an unnecessary burden on our licensing division, as the level of vetting and application process for a supplier sports wagering license is unnecessary. Marketing Affiliates contract with SW Operators and MSPs and are ultimately regulated by the terms of that contract and the Lottery requires that the Operator and MSPs be held liable and accountable for the actions of the Marketing Affiliate.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

No or minimal impact expected.

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

No or minimal impact expected.

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

No or minimal impact expected.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2022 Increase/Decrease (use "-")	2023 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
<b>2. Estimated Total Revenues</b>	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

No or minimal impact expected.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

**Yes**

**Allen R Prunty -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**

TITLE 179  
LEGISLATIVE RULE  
WEST VIRGINIA LOTTERY

SERIES 9  
WEST VIRGINIA LOTTERY SPORTS WAGERING RULE

**§179-9-1. General.**

1.1. Scope and Purpose. -- The purpose of this legislative rule is to clarify and provide regulations that the Commission considers necessary for the successful implementation, administration, and enforcement of the West Virginia Lottery Sports Wagering Act codified in W.Va. Code §§29-22D-1 et seq.

1.2. Authority. -- W. Va. Code §29-22D-4(c), W. Va. Code §29-22A-1 et seq., and W. Va. Code §29A-3-15.

1.3. Filing Date. -- ~~April 7, 2021.~~

1.4. Effective Date. -- ~~April 9, 2019.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon ~~August 1, 2024~~ August 1, 20\_\_.

**§179-9-2. Terms.**

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

2.1. "ACH" means Automated Clearing House, which is a network that connects all banking and financial institutions within the United States.

2.2. "Act" means the West Virginia Lottery Sports Wagering Act, W. Va. Code §§29-22D-1 et seq.

2.3. "AML" means anti-money laundering.

2.4. "Authentication process" means a method used by a system to verify the validity of software.

2.5. "Cancelled wager" means a wager that has been cancelled by the system due to any issue with an event that prevents the wager's completion.

2.6. "Commission" means the State Lottery Commission, created by W.Va. Code §§29-22-1 et seq.

2.7. "Confidential Player Account Information" means player account balances and any personally identifiable information (PII) contained within the sports pool system.

2.8. "Daily Fantasy Sports" means a fantasy or simulation sports game, educational game, contest or competition in which:

2.8.1. Participants own, manage, or coach imaginary teams in competitions against other participants, and not against the individual or entity responsible for creating, administering or operating such contest, for a prize and/or award;

2.8.2 The value of all prizes and awards offered to winning participants is established and made known to the participants in advance of the fantasy game, contest or competition.

2.8.3. All winning outcomes reflect the relative knowledge and skill of participants and are determined predominantly by accumulated statistical results of the performance of individuals, including athletes in the case of the sporting events; and

2.8.4. A winning outcome is not based on the score, point spread or performance of a single team or combination of such teams, or any single performance of an individual athlete or player in a single event.

~~2.7.9.~~ “Director” means the individual appointed by the Governor to provide management and administration necessary to direct the State Lottery Office pursuant to W. Va. Code §29-22-6.

~~2.8.10.~~ “Event number” means a set of alpha and/or numeric characters that correspond to a sports event or an event ancillary to a sports event.

~~2.9.11.~~ “Integrity monitoring system” means a system of policies and procedures approved by the Commission through which an online sports pool operator receives and sends reports from sports pool operators to assist in identifying unusual or suspicious activity.

~~2.10.12.~~ “Internal controls” mean the internal procedures, administration, and accounting controls designed by the sports pool operator to conduct sports wagering operations, as required by the Commission pursuant to W. Va. Code §29-22D-4.

~~2.11.13.~~ “Layoff wager” means a wager placed by a West Virginia operator with another West Virginia operator for the purpose of offsetting patron wagers made pursuant to the Act and this rule.

~~2.12.14.~~ “MICS” means the Minimum Internal Control Standards established by the Commission pursuant to W. Va. Code §29-22D-4.

~~2.13.15.~~ “Mobile applications and other digital platforms” means any mobile application or interactive platform approved by the Commission for operation of an online sports pool.

~~2.14.16.~~ “Multi-source authentication” means a type of strong authentication that uses two of the following to verify a patron's identity:

~~2.14.16.1.~~ Information known only to the patron, such as a password, pattern or answers to challenge questions;

~~2.14.16.2.~~ An item possessed by a patron such as an electronic token, physical token or an identification card; or

~~2.14.16.3.~~ A patron's biometric data, such as fingerprints, facial or voice recognition.

~~2.15.17.~~ “Online sports pool” means an operation in which wagers on sports events are made through computers or mobile applications on mobile devices or other approved interactive devices accepted through a gaming system approved by the Commission.

~~2.16.18.~~ “Online sports pool system” means all hardware, software, and communications that

comprise a type of server-based gaming system for the purpose of offering an online sports pool.

~~2.17-19.~~ “Operator” or “sports pool operator” means a casino licensee which has elected to operate a sports pool, either independently or jointly.

~~2.18-20.~~ “Patron session” means a period of time when a patron is logged on to an online sports pool system.

2.21. “Personally identifiable information” or “PII” means any data that could potentially be used to identify a particular person. Examples include, but are not limited to, a full name, Social Security Number, driver’s license number, birth date, age, bank account number, credit card number, debit card number, and email address. Generally two or more of these can identify a specific person depending on the uniqueness of the identifiers within a specific geographic area.

~~2.19-22.~~ “Prohibited sports pool participant” means any individual who is prohibited from wagering pursuant to: (1) any self-exclusion list or a casino or Commission exclusion list; (2) any individual whose participation may undermine the integrity of the wagering or the sports event or who is excluded from wagering for other good cause, including but not limited to, an attempt to place a wager as an agent or a proxy; (3) any employee of the Commission; or (4) a licensed sports pool operator or any of its employees placing a wager with that sports pool operator in violation of W.Va. Code §§29-22D-1 et seq.

~~2.20-23.~~ “Promotional credit” means any amount credited to a patron by a sports pool operator, without charge, to be included in a patron's wager.

2.24. “Registrant” means certain affiliate companies, including but not limited to, sports wagering marketing affiliate companies, whose services are limited to click on ads or links for the sole purpose of directing a patron to a sports wagering site to sign up for a new sports wagering account.

~~2.21-25.~~ “Secure transaction file” means a file that contains data, which cannot be modified without detection.

~~2.22-26.~~ “Sports pool” or “sports pool operation” means the business of accepting wagers on any sports event by any system or method of wagering by a sports pool operator or its sports pool intermediary on site at the casino, in areas approved by the Commission.

~~2.23-27.~~ “Sports pool intermediary” means an independent entity affiliated with a licensed sports pool operator and holding a management services provider license or supplier license, as provided in W. Va. Code §§29-22D-1 et seq., to offer sports wagering activities, supplies, or services in a sports wagering lounge or through an online sports pool. The customer accounts or sports wagering accounts, of such intermediaries shall be owned by the licensed casino operators.

~~2.24-28.~~ “Sports pool kiosk” or “kiosk” means an automated device that may be used for sports pool voucher and ticket processing and automated functions as approved by the Commission.

~~2.25-29.~~ “Sports pool system” means all equipment and software used in conjunction with the operation of a sports pool or online sports pool.

~~2.26-30.~~ “Sports wagering account” means an account established by a sports pool operator for an individual patron to use for online sports pool wagering.

~~2.27-31.~~ “Sports wagering lounge” means an area in a licensed casino where a sports pool is

operated.

~~2.28-32.~~ “Sports wagering satellite lounge” means one or more secondary areas approved by the Commission where a sports pool is operated within a casino.

~~2.29-33.~~ “Strong authentication” means a method of confirming a patron’s identity that has been demonstrated to the satisfaction of the Commission to effectively provide higher security than a user name and password alone.

~~2.30-34.~~ “Suspicious wagering activity” means unusual wagering activity which cannot be explained and is indicative of match-fixing, the manipulation of an event, misuse of inside information, or other prohibited activity.

~~2.31-35.~~ “Temporary sports pool facility” means an area approved by the Commission for use in sports pool operations during the construction of a sports wagering lounge and may include the utilization of designated windows at the current casino cage for purposes of placing sports wagers and also includes self-service wagering machines located at the casino or the casino hotel complex.

~~2.32-36.~~ “Ticket” means a printed record issued or an electronic record maintained by the sports pool system that evidences a sports wager.

~~2.33-37.~~ “Unusual wagering activity” means abnormal wagering activity exhibited by patrons and deemed by a sports pool operator as a potential indicator of suspicious activity. Unusual wagering activity may include the size of a patron’s wager or increased wagering volume on a particular event or wager type.

~~2.34-38.~~ “Voided wager” means a wager voided by a ticket writer with supervisor approval for a specified event.

~~2.35-39.~~ “Voucher” means a printed wagering instrument, or digital representation thereof, used in a cashless wagering system that has a fixed dollar wagering value and is redeemable for cash or cash equivalents approved by the Commission.

~~2.36-40.~~ “Wager” means a sum of money or thing of value risked on an uncertain occurrence as defined in W. Va. Code §29-22D-3.

~~2.37-41.~~ “Wagering event” or “event” means an occurrence of an event on which a wager authorized by the Act may be placed.

### **§179-9-3. General requirements for sports pools and online sports pools.**

3.1. No person or entity shall conduct sports wagering activities, including online sports wagering activities, unless licensed to do so consistent with the West Virginia Lottery Sports Wagering Act, W. Va. Code §29-22D-1, et seq., and this rule. Sports wagering activities, including online sports wagering activities, do not include the following:

3.1.1. Pari-mutuel betting on the outcome of horse or dog races, authorized by W. Va. Code §19-23-12a and W. Va. Code §19-23-12d;

3.1.2. Lottery games of the West Virginia State Lottery authorized by W. Va. Code §29-22-1, et seq.;

3.1.3. Racetrack video lottery, authorized by W. Va. Code §29-22A-1, et seq.;

3.1.4. Limited video lottery, authorized by W. Va. Code §29-22B-1, et seq.;

3.1.5. Racetrack tables games, authorized by W. Va. Code §29-22C-1, et seq.;

3.1.6. Video lottery and table games, authorized by W. Va. Code §29-25-1, et seq.; and

3.1.7. Daily Fantasy Sports (“DFS”).

~~3.4.2.~~ A sports pool operator shall conduct sports wagering activities, including online sports wagering activities, in compliance with the requirements for West Virginia Lottery Racetrack Table Games provided in W.Va. Code §§29-22C-1 et seq., and W. Va. Code of State Rules §§179-8-1 et seq., when such requirements are applicable and do not conflict with the Act or this rule.

~~3.2.3.~~ A sports pool intermediary authorized to operate a sports pool or an online sports pool, or both, shall conduct such sports wagering activities in compliance with the requirements for West Virginia Lottery Racetrack Table Games provided in W.Va. Code §§29-22C-1 et seq., and W. Va. Code of State Rules §§179-8-1 et seq., when such requirements are applicable and do not conflict with the Act or this rule.

~~3.3.4.~~ Sports wagering may commence upon approval of the Director in a temporary sports pool facility for a period not to exceed 9 months if the sports wagering lounge is under construction. The Director may extend the use of the temporary facility only upon a showing of good cause.

~~3.4.5.~~ A sports pool operator shall maintain a cash reserve of not less than the greater of \$500,000 or the amount necessary to ensure the ability to cover the outstanding sports pool and online sports pool liability.

~~3.5.6.~~ Each sports pool operator shall, prior to commencing operations and annually thereafter, perform a system integrity and security assessment of sports pool systems and online sports pool systems conducted by an independent professional selected by the licensee and subject to approval of the Commission. The independent professional’s report on the assessment shall be submitted to the Commission and shall include:

~~3.5-6.1.~~ Scope of review;

~~3.5-6.2.~~ Name and company affiliation of the individual(s) who conducted the assessment;

~~3.5-6.3.~~ Date of assessment;

~~3.5-6.4.~~ Findings;

~~3.5-6.5.~~ Recommended corrective action, if applicable; and

~~3.5-6.6.~~ The operator’s response to the findings and recommended corrective action.

~~3.6.7.~~ A sports pool operator and online sports pool operator shall investigate each patron complaint and provide a response to the patron within ten calendar days. For complaints that cannot be resolved to the satisfaction of the patron related to patron accounts, settlement of wagers, and/or illegal activity, a copy of the complaint and operator’s response, including all relevant documentation, shall be provided to the Commission.

~~3.7.8.~~ A sports pool operator or sports pool intermediary shall only accept online and mobile wagers from patrons that have been affirmatively located as being physically present in the State of West Virginia at the time of their wager: *Provided*, That wagers may be accepted from patrons located outside of the State of West Virginia pursuant to a sports wagering agreement with another government as provided in W. Va. Code §29-22D-14 if acceptance of such wagers does not conflict with federal law.

~~3.8.9.~~ To conduct sports pool wagering transactions on premises, a casino shall have a cashier's cage that has been approved for the operation of West Virginia Lottery Racetrack Table Games or meets the same requirements for cashier's cages provided in W. Va. Code of State Rules §§179-8-1 et seq. Sports pool wagering transactions shall be conducted from a sports wagering lounge booth located in the sports wagering lounge, from other window locations as approved by the Commission, from kiosks in locations approved by the Commission, or, when a lounge booth is closed, from a designated window in the cashier's cage for redemption of winning tickets only.

~~3.9.10.~~ Sports pool operations within a casino shall be designed to promote optimum security of the facility, and shall include the installation and maintenance of security and surveillance equipment, including closed circuit television equipment, according to specifications approved by the Commission. The Commission shall have direct access to the system and its transmissions. Nothing in this section shall preclude the Commission from permitting a sports pool operator to conduct sports pool wagering, subject to appropriate terms and conditions, in a location other than a sports wagering lounge upon petition of a sports pool operator. A sports pool operator shall submit a surveillance plan for Commission approval prior to accepting wagers in any approved sports wagering lounge, sports wagering satellite lounge, or temporary facility.

**§179-9-4. Sports wagering integrity; confidential information.**

4.1. Casino operators shall have controls in place to identify unusual and suspicious wagering activity and report such activity according to the integrity monitoring system procedures approved by the Commission.

4.2. All integrity monitoring system procedures shall provide for the sharing of information with each casino operator and shall disseminate all reports of unusual activity to all sports pool intermediary licensees as well as to any regulatory agencies, governing authorities, and accredited sports governing entities as required by the Commission. All sports wagering operators shall review such reports and notify other operators of whether or not they have experienced similar activity in the manner approved by the Commission. Specific reporting requirements shall be designated by the Commission in its MICS.

4.3. If an operator finds that previously reported unusual wagering activity rises to the level of suspicious activity, they shall immediately notify all other operators, the Commission, appropriate law enforcement entities, regulatory agencies, governing authorities, and accredited sports governing entities as required by the Commission.

4.4. A sports pool operator or sports pool intermediary receiving a report of suspicious wagering activity shall be permitted to suspend wagering on events related to the report, but may only cancel related wagers after Commission approval.

4.5. Integrity monitoring systems shall provide the Commission with remote access which shall provide at a minimum:

4.5.1. All reports of unusual wagering activity;

4.5.2. If the activity was determined to be suspicious; and

4.5.3. The actions taken according to the integrity monitoring system procedures approved by the Commission.

4.6. Notwithstanding the other provisions of this section, all information and data received pursuant to administering the West Virginia Lottery Sports Wagering Act related to unusual or suspicious activity shall be considered confidential. Such data and information may not be revealed in whole or in part except upon the lawful order of a court of competent jurisdiction, or, with any law enforcement entities, regulatory agencies, governing authorities, or accredited sports governing entities as required by the Commission.

**§179-9-5. Internal controls; house rules.**

5.1. Sports pool operators shall file internal controls for all aspects of sports pool and/or online sports pool wagering systems with the Commission prior to commencing operations.

5.2. The internal controls shall address the following items regarding the sports pool system, at a minimum:

5.2.1. User access controls for all sports pool personnel;

5.2.2. Segregation of duties;

5.2.3. Automated and manual risk management procedures;

5.2.4. Procedures for identifying and reporting fraud and suspicious conduct;

5.2.5. Procedures to prevent wagering by prohibited sports pool participants;

5.2.6. Description of AML compliance standards;

5.2.7. Description of all types of wagers available to be offered by the system; and

5.2.8. Description of all integrated third party systems.

5.3. The internal controls shall detail the reconciliation of assets and documents contained in a sports wagering lounge ticket writer's drawer, sports pool kiosks, and online sports pools.

5.4. In the event of a failure of an online sports pool system's ability to pay winning wagers, the licensee shall have internal controls detailing the method of paying winning wagers. The licensee shall also file an incident report for each system failure and document the date, time and reason for the failure along with the date and time the system is restored with the Commission.

5.5. Casino licensees and sports pool intermediaries shall adopt comprehensive house rules which shall be approved by the Director that include the following, at a minimum:

5.5.1. Method of calculation and payment of winning wagers;

5.5.2. Effect of schedule changes;

- 5.5.3. Method of notifying patrons of odds or proposition changes;
- 5.5.4. Acceptance of wagers at terms other than those posted;
- 5.5.5. Expiration of any winning ticket one year after the date of the event;
- 5.5.6. Method of contacting the operator for questions and complaints;
- 5.5.7. Description of prohibited sports pool participants; and
- 5.5.8. Method of funding a sports wager.

5.6. The house rules, together with any other information the Commission deems appropriate, shall be conspicuously displayed in the sports wagering lounge, posted on the operator's website, and included in the terms and conditions of a sports wagering account. Copies shall be made readily available to patrons.

#### **§179-9-6. Sports wagering system requirements.**

6.1. Prior to operating a sports pool or online sports pool pursuant to W.Va. Code §§29-22D-1 et seq., all equipment and software used in conjunction with its operation shall be submitted to an independent testing laboratory or a testing laboratory operated in an accredited jurisdiction approved by the Commission.

6.2. All wagers on sporting events authorized by W.Va. Code §§29-22D-1 et seq., shall be initiated, received, and otherwise made within this State unless otherwise permitted by the Commission in accordance with applicable federal and state laws. Consistent with the intent of the United States Congress as articulated in the Unlawful Internet Gambling Enforcement Act of 2006 (31 U.S.C. §§5361 et seq.) the intermediate routing of electronic data relating to a lawful intrastate wager authorized under this provision shall not determine the location or locations in which such wager is initiated, received, or otherwise made.

6.3. A sports pool system submission to a testing laboratory shall contain a description of the risk management framework, including but not limited to:

- 6.3.1. User access controls for all sports pool personnel;
- 6.3.2. Information regarding segregation of duties;
- 6.3.3. Information regarding automated risk-management procedures;
- 6.3.4. Information regarding fraud detection;
- 6.3.5. Controls ensuring regulatory compliance;
- 6.3.6. Description of AML compliance standards;
- 6.3.7. Description of all software applications that comprise the system;
- 6.3.8. Description of all types of wagers available to be offered by the system;

- 6.3.9. Description of all integrated third party systems; and
- 6.3.10. Description of the method to prevent past posting.
- 6.4. A sports pool system shall maintain all transactional wagering data for a period of five years.
- 6.5. A sports pool system shall be capable of recording the following information for each wager made:
  - 6.5.1. Description of event;
  - 6.5.2. Event number;
  - 6.5.3. Wager selection;
  - 6.5.4. Type of wager;
  - 6.5.5. Amount of wager;
  - 6.5.6. Date and time of wager;
  - 6.5.7. Unique wager identifier; and
  - 6.5.8. An indication of when the ticket expires.
- 6.6. All tickets generated by a cashier or at a kiosk shall contain the following information:
  - 6.6.1. Name and address of the party issuing the ticket;
  - 6.6.2. A barcode or similar symbol or marking as approved by the Commission, corresponding to the unique wager identifier;
  - 6.6.3. Method of redeeming winning ticket via mail; and
  - 6.6.4. Cashier or kiosk generating the ticket.
- 6.7. If the sports pool system issues and redeems a sports pool voucher, the system shall be capable of recording the following information for each voucher:
  - 6.7.1. Amount of voucher;
  - 6.7.2. Date, time, and location of issuance;
  - 6.7.3. Unique voucher identifier;
  - 6.7.4. Expiration date of the voucher; and
  - 6.7.5. Date, time, and location of redemption, if applicable.
- 6.8. Sports pool vouchers issued by a sports pool system shall contain the following information:

- 6.8.1. Date, time, and location of issuance;
- 6.8.2. Amount of the voucher;
- 6.8.3. Unique voucher identifier;
- 6.8.4. Expiration date of the voucher;
- 6.8.5. Name of the issuing sports pool operator; and
- 6.8.6. An indication that the voucher can only be redeemed in exchange for a sports wager or cash.

6.9. A sports pool system that offers in-play wagering shall be capable of the following:

- 6.9.1. The accurate and timely update of odds for in-play wagers;
- 6.9.2. The ability to notify the patron of any change in odds after a wager is attempted;
- 6.9.3. The ability for the patron to confirm the wager after notification of the odds change; and
- 6.9.4. The ability to freeze or suspend the offering of wagers when necessary.

6.10. A sports pool system shall be configured to perform the following functions:

- 6.10.1. Creating wagers;
- 6.10.2. Settling wagers;
- 6.10.3. Voiding wagers;
- 6.10.4. Cancelling wagers; and
- 6.10.5. Preventing the acceptance of wagers from prohibited sports pool participants.

6.11. A sports pool system shall be capable of processing lost, destroyed, or expired wagering tickets.

6.12. When a sports pool wager is voided or cancelled, the system shall clearly indicate that the ticket is voided or cancelled, render it nonredeemable, and make an entry in the system indicating the voiding or cancellation of the wager and the identity of the cashier or automated process completing the voiding or cancellation.

6.13. A sports pool system shall prevent past posting of wagers and the voiding or cancellation of wagers after the outcome of an event is known.

6.14. In the event a patron has a pending sports pool wager and then self-excludes, the sports pool operator's internal controls shall govern any cancellation or refund of the wager.

6.15. A sports pool system shall, at least once every 24 hours, perform an authentication process on all software used to offer, record, and process wagers to ensure there have been no unauthorized

modifications. In the event of an authentication failure, the sports pool operator's Information Systems Officer (ISO) and the Director, or his or her designee, must be notified within 24 hours. The results of all authentication attempts shall be recorded by the system and maintained for a minimum period of 90 days.

6.16. A sports pool system shall have controls in place to review the accuracy and timeliness of any data feeds used to offer or settle wagers. In the event that an incident or error occurs that results in a loss of communication with data feeds used to offer or redeem wagers, such error shall be recorded in a log capturing the date and time of the error, the nature of the error, and a description of its impact on the system's performance. Such information shall be maintained for a minimum period of one year.

6.17. A sports pool operator or sports pool intermediary shall provide the Director, or his or her designee, with access to wagering transactions and related data as deemed necessary and in a manner approved by the Commission.

6.18. A sports pool system shall be capable of recording and maintaining the following information related to wagers:

- 6.18.1. Description of the event;
- 6.18.2. Event number;
- 6.18.3. Wager selection;
- 6.18.4. Type of wager;
- 6.18.5. Amount of wager;
- 6.18.6. Amount of potential payout;
- 6.18.7. Date and time of wager;
- 6.18.8. Identity of the cashier accepting the wager if applicable;
- 6.18.9. Unique ticket identifier;
- 6.18.10. Expiration date of ticket;
- 6.18.11. Patron name;
- 6.18.12. Date, time, amount, and description of the settlement;
- 6.18.13. Location where wager was made;
- 6.18.14. Location of redemption; and
- 6.18.15. Identity of cashier settling the wager if applicable.

6.19. For all lost tickets that are redeemed, a sports pool system shall record and maintain the following information:

- 6.19.1. Date and time of redemption;

- 6.19.2. Employee responsible for redeeming the ticket;
- 6.19.3. Name of patron redeeming the wager;
- 6.19.4. Unique ticket identifier; and
- 6.19.5. Location of the redemption.

**§179-9-7. Patron Wagers.**

7.1. A sports pool operator or sports pool intermediary shall not accept any wager on a sports event unless it has provided written notification to the Director of the first time that wagering on a category of wagering event (for example, wagering on a particular type of professional sport) or type of wager (for example an in-play wager or exchange wager) is offered to the public. Such notice shall be submitted prior to accepting a wager on a new category of wagering event or accepting a new type of wager. Notice is not required whenever the odds change on a previously offered wagering event. The Director, or his or her designee, shall respond to such notice within 24 hours or by the next business day. The Director reserves the right to prohibit the acceptance of wagers and may order the cancellation of wagers and require refunds on any event for which wagering would be contrary to the public policies of the State.

7.2. A sports pool operator or sports pool intermediary shall only accept wagers on sports events and other events for which:

- 7.2.1. The outcome can be verified;
- 7.2.2. The outcome can be generated by a reliable and independent process;
- 7.2.3. The outcome will not be affected by any wager placed; and
- 7.2.4. The event is conducted in conformity with all applicable laws.

7.3. Patron wagers pursuant to the Act placed in a sports wagering lounge or other approved area within a licensed casino shall be made with:

- 7.3.1. Cash;
- 7.3.2. Cash equivalent;
- 7.3.3. Credit or debit card;
- 7.3.4. Promotional funds;
- 7.3.5. Sports pool vouchers;
- 7.3.6. Value gaming chips; and
- 7.3.7. Any other means approved by the Commission.

7.4. The available wagers shall be displayed in a manner visible to the public and the operator's close-circuit television system. The display shall include the event number, odds, and a brief description of

the event.

7.5. A patron may redeem a winning wagering ticket by mail according to the sports pool operator's internal controls.

7.6. A sports pool operator may, in its discretion, accept a layoff wager from another licensed sports pool operator. A licensed sports pool operator placing a layoff wager shall disclose its identity to the other licensed sports pool operator accepting the wager.

**§179-9-8. Sports pool reports; wagering revenue; computation of taxes; reconciliation.**

8.1. The sports pool system shall be required to generate those reports necessary to record total gross sports wagering receipts, wagering liability, ticket redemption, and such other information relating to sports wagering as deemed necessary by the Commission or as required by MICS. Such reports shall distinguish information by type and status where applicable and shall meet the Commission's MICS.

8.2. Adjusted gross wagering receipts from sports wagering subject to the 10% privilege tax shall equal the total of all wagers received less cancelled wagers and less amounts paid out for winning wagers.

8.3. To determine the daily win amount, the sports pool operator's accounting department shall compare a win report from the sports wagering system to the reconciliation of the sports wagering drawers. The operator shall be required to calculate and report adjusted gross sports wagering receipts using the higher amount identified in such comparison, unless otherwise authorized by the Commission in its MICS.

8.4. The sports pool operator shall permit duly authorized representatives of the Commission to examine the operator's accounts and records for the purpose of certifying total gross revenue receipts and adjusted gross sports revenue receipts. The Director shall notify the operator of any deficiencies disclosed during the gross revenue receipts certification process.

**§179-9-9. Sports wagering kiosks.**

9.1. The sports pool operator or its sports pool intermediary may utilize sports pool kiosks located in the casino for wagering transactions in conjunction with a sports pool system in a location approved by the Director.

9.2. On a daily basis, a sports pool operator shall remove the bill validator boxes in the sports pool kiosks (the "sports pool kiosk drop"). The sports pool kiosk drop shall be monitored and recorded by surveillance. The sports pool operator shall submit the sports pool kiosk drop schedule to the Director.

9.3. The sports pool operator's accounting department shall reconcile the sports pool kiosks on a daily basis pursuant to internal controls. Any variance of \$ 500.00 or more shall be documented by the accounting department and reported in writing to the Director within 72 hours of the end of the gaming day during which the variance was discovered. The report shall indicate the cause of the variance and shall contain any documentation required to support the stated explanation.

9.4. All sports wagering kiosks must satisfy all MICS requirements and be detailed in the sports pool operator's internal controls approved by the Commission.

**§179-9-10. Accounting controls for the sports wagering lounge.**

10.1. A ticket writer shall begin a shift with an imprest amount of currency and coin to be known as the “sports wagering inventory.” No funds shall be added to or removed from the sports wagering inventory during such shift except:

10.1.1. In collection of sports wagers;

10.1.2. In order to make change for a patron buying a sports wagering ticket;

10.1.3. In collection for the issuance of sports wagering vouchers;

10.1.4. In payment of winning or properly cancelled or refunded sports wagering tickets;

10.1.5. In payment of sports wagering vouchers; or

10.1.6. In exchanges with the cashier’s cage, a satellite cage, or sports wagering lounge booth vault supported by proper documentation which documentation shall be sufficient for accounting reconciliation purposes.

10.2. A “sports wagering count sheet” shall be completed and signed by each ticket writer at the end of his or her shift and submitted to the shift supervisor. The information to be recorded on the sports wagering count sheet shall be set forth by the Commission in its MICS.

10.3. The count sheets shall be due by noon on the next gaming day.

10.4. The shift supervisor shall compare the ticket writer window net receipts for the shift as generated by the terminal with the sports wagering count sheet total plus the sports wagering inventory, and if the ticket writer net receipts equals the wagering count sheet total plus the wagering inventory, the shift supervisor shall sign the sports wagering count sheet attesting to its accuracy.

10.5. If the sports wagering window net receipts for the shift, as generated by the system, does not agree with the sports wagering count sheet total plus the sports wagering inventory, the shift supervisor shall record any overage or shortage. If the count does not agree, the ticket writer and the shift supervisor shall attempt to determine the cause of the discrepancy in the count. Any discrepancy that cannot be resolved by the ticket writer and the shift supervisor shall be reported in writing to the department supervisor in charge at such time. Any discrepancy in excess of \$500 shall be reported to the Commission. The report shall include the following:

10.5.1. Date on which the discrepancy occurred;

10.5.2. Shift during which the discrepancy occurred;

10.5.3. Name of the ticket writer;

10.5.4. Name of the supervisor;

10.5.5. Window number; and

10.5.6. Amount of the discrepancy.

**§179-9-11. Approval to immediately commence sports pool or online sports pool operations.**

11.1. Upon receiving an application for a sports wagering operator's license, the Director shall review the request. If the Director determines that the applicant holds a valid casino license, has paid the sports wagering license fee, and is in compliance with this section, the Commission shall immediately issue a sports wagering license as provided in the Act.

11.2. Any sports pool intermediary seeking to operate a sports wagering pool or online sports wagering pool pursuant to a contract with the licensed sports pool operator must be licensed as a management services provider, as provided in the Act. Upon submitting an application fee to the Commission for a management services provider license, an applicant may submit a contemporaneous request to the Commission for an interim license authorizing the applicant to immediately act as a sports pool intermediary for up to 270 days, pending the Commission's full review of the application for an annual license. Once approved, an annual license commencement date is the date on which an interim license was issued.

11.3. Any sports pool intermediary seeking to sell, lease, or offer services related to sports wagering equipment, systems, or other gaming items necessary to conduct sports wagering must be licensed as a supplier, as provided in the Act. Upon submitting an application fee to the Commission for a supplier license, an applicant may submit a contemporaneous request to the Commission for an interim license authorizing the applicant to immediately act as a sports pool intermediary for up to 270 days, pending the Commission's full review of the application for an annual license. Once approved, an annual license commencement date is the date on which an interim license was issued.

11.4. All sports pool wagering and online sports pool wagering conducted under authority of an interim license approval shall comply with these rules.

**§179-9-12. Limitations on licensed sports pool operators.**

12.1. Each sports pool operator, in its discretion, may provide no more than three individually branded online sports pool websites and accompanying mobile applications.

12.2. Any individually branded online sports pool website or mobile application provided by a sports pool intermediary must, on its webpage, conspicuously bear the name of the sports pool operator with which it is affiliated.

**§179-9-13. Additional requirements for wagers placed on mobile applications and other digital platforms**

13.1. A sports pool operator or sports pool intermediary shall file with the Commission, internal controls for all aspects of online sports pool operations prior to implementation and any time a change is made thereafter. The internal controls shall include detailed procedures for system security, operations, accounting, and reporting of problem gamblers.

13.2. A sports pool operator or sports pool intermediary offering online sports pools shall describe in its internal controls the method for securely issuing, modifying, and resetting a patron's account password, Personal Identification Number (PIN), or other approved security feature, when applicable. Any method shall include notification to the patron following any modification via electronic or regular mail, text message, or other manner approved by the Director or the Commission. Such method shall include at a minimum:

13.2.1. Proof of identity, if in person;

13.2.2. The correct response to two or more challenge questions; or

13.2.3. Strong authentication.

13.3. All terms and conditions for online sports pools shall be included as an appendix to the internal controls filed with the Commission pursuant to this rule.

13.4. Each online sports pool website or mobile application shall display a responsible gaming logo in a manner approved by the Commission to direct a patron to the 'operator's responsible gaming webpage. The responsible gaming webpage shall be accessible to a patron during a patron session and shall contain, at a minimum, the following:

13.4.1. A prominent message, which states "If you or someone you know has a gambling problem and wants help, call 1-800-Gambler";

13.4.2. A direct link to the Problem Gamblers Help Network of West Virginia and one other organization based in the United States dedicated to helping people with potential gambling problems;

13.4.3. A clear statement of the online sports pool operator's policy and commitment to responsible gaming; and

13.4.4. Rules governing self-imposed responsible gaming limits and the ability for the patron to establish those limits.

**§179-9-14. Sports wagering accounts.**

14.1. Online sports pool wagering shall only be engaged in by patrons who have established a sports wagering account.

14.2. In order to establish a sports wagering account, a sports pool operator or sports pool intermediary shall:

14.2.1. Create an electronic patron file, which shall include at a minimum:

14.2.1.1. The patron's legal name;

14.2.1.2. The patron's date of birth;

14.2.1.3. The patron's Social Security number, or the last four digits thereof, or an equivalent identification number for a noncitizen patron, such as a passport or taxpayer identification number;

14.2.1.4. The patron's online sports pool account number;

14.2.1.5. The patron's residential address (a post office box is not acceptable);

14.2.1.6. The patron's electronic mail address;

14.2.1.7. The patron's telephone number;

14.2.1.8. Any other information collected from the patron used to verify his or her identity;

14.2.1.9. The method used to verify the patron's identity; and

14.2.1.10. The date of verification.

14.2.2. Encrypt all of the following information contained in an electronic patron file:

14.2.2.1. Any portion of the patron's Social Security number or equivalent identification number for a noncitizen patron, such as a passport or taxpayer identification number;

14.2.2.2. The patron's passwords and/or PINs; and

14.2.2.3. The patron's credit card numbers, bank account numbers, or other personal financial information.

14.2.3. Verify the patron's identity in accordance with:

14.2.3.1. Reliable forms of personal identification specified in the MICS; or

14.2.3.2. Other methodology for remote multi-source authentication, which may include third-party and governmental databases, as approved by the Commission (such as Know Your Customer or "KYC").

14.2.4. Record the document number of the government issued identification credential examined;

14.2.5. Require the patron to establish a password or other access security feature as approved by the Commission and advise the patron of the ability to utilize strong authentication log in protection;

14.2.6. Verify that the patron is not a prohibited sports pool participant;

14.2.7. Record the patron's acceptance of the sports pool operator's or sports pool intermediary's terms and conditions to participate in wagering through the mobile application or any authorized digital platform accepting wagers online;

14.2.8. Record the patron's certification that the information provided to the operator is accurate;

14.2.9. Record the patron's acknowledgment that the legal age for wagering in an online sports pool is 21, and that he or she is prohibited from allowing any other person to access or use his or her sports wagering account; and

14.2.10. Notify the patron of the establishment of the account via electronic mail or regular mail.

14.3. A patron shall have only one sports wagering account for each sports pool operator or sports pool intermediary. Each sports wagering account shall be:

14.3.1. Non-transferable;

14.3.2. Unique to the patron who establishes the account; and

14.3.3. Distinct from any other account number that the patron may have established with the

sports pool operator.

14.4. A patron's sports wagering account for online sports pools may be funded through the use of:

14.4.1. A patron's deposit account established for sports wagering according to the requirements provided in W. Va. Code of State Rules §179-8-121;

14.4.2. A patron's credit or debit card;

14.4.3. A patron's deposit of cash or vouchers at a cashiering location approved by the Commission;

14.4.4. A patron's reloadable prepaid card, which has been verified as being issued to the patron and is non-transferable;

14.4.5. Promotional credit;

14.4.6. Winnings;

14.4.7. Adjustments made by the sports pool operator with documented notification to the patron;

14.4.8. ACH transfer, provided that the operator has security measures and controls to prevent ACH fraud pursuant to section 14.5 below; or

14.4.9. Any other means approved by the Commission.

14.5. A failed ACH deposit attempt shall not be considered fraudulent if the patron has successfully deposited funds via an ACH transfer on a previous occasion with no outstanding chargebacks. Otherwise, the operator shall:

14.5.1. Temporarily block the patron's account for investigation of fraud after five consecutive failed ACH deposit attempts within a 10-minute time period. If there is no evidence of fraud, the block may be vacated; and

14.5.2. Suspend the patron's account after five additional consecutive failed ACH deposit attempts within a 10-minute period.

14.6. A sports pool operator or sports pool intermediary shall not permit a patron transfer funds from a patron account to another patron.

14.7. All adjustments to patron accounts for amounts of \$500.00 or under shall be periodically reviewed by supervisory personnel as set forth in the sports pool operator's internal controls. All other adjustments shall be authorized by supervisory personnel prior to being entered.

14.8. Online sports pool systems shall provide an account statement with account details to a patron on demand, which shall include detailed account activity for at least the six months preceding 24 hours prior to the request. In addition, an online sports pool system shall, upon request, be capable of providing a summary statement of all patron activity during the past year.

14.9. A sports pool operator shall maintain a West Virginia bank account separate from all other

operating accounts to ensure the security of funds held in patron sports wagering accounts. The balance maintained in this account shall be greater than or equal to the sum of the daily ending cashable balance of all patron sports wagering accounts, pending wagers, and pending withdrawals. A sports pool operator shall have unfettered access to all patron sports wagering account and transaction data to ensure the amount held in its independent account is sufficient. The casino controller or other higher ranking employee shall file a monthly attestation with the Commission that the funds have been safeguarded pursuant to this subsection.

14.10. A sports pool operator or sports pool intermediary shall periodically re-verify a patron's identification upon reasonable suspicion that the patron's identification has been compromised.

14.11. An online sports pool system shall provide a conspicuous and readily accessible method for a patron to close his or her account through the account management or similar page. Any balance remaining in a patron's sports wagering account closed by a patron shall be refunded pursuant to the operator's internal controls.

**§179-9-15. Geolocation requirement.**

15.1. In order to prevent unauthorized use of an online sports pool system to place a wager when a player is not within the permitted boundary, the sports pool operator or sports pool intermediary must utilize a geolocation system to reasonably detect the physical location of a player attempting to access the online sports pool system and place a wager; and to monitor and block unauthorized attempts to access the online sports pool system in order to place a wager when a player is not within the permitted boundary.

15.2. The geolocation system shall ensure that any player is located within the permitted boundary when placing any wager, and shall be equipped to dynamically monitor the player's location and block unauthorized attempts to access the online sports pool system in order to place a wager throughout the duration of the patron session.

15.3. The Commission shall approve technical specifications for geolocation systems and any specific requirements related to geolocation as part of its MICS.

**§179-9-16. Online sports pool system requirements; logging.**

16.1. All online sports pool systems authorized by the Act and this rule shall be designed to ensure the integrity and confidentiality of all patron communications and ensure the proper identification of the sender and receiver of all communications. If communications are performed across a public or third-party network, the system shall either encrypt the data packets or utilize a secure communications protocol to ensure the integrity and confidentiality of the transmission.

16.2. Online sports pool systems shall employ a mechanism capable of maintaining a separate copy of all of the information required to be logged in this section on a separate and independent logging device capable of being administered by an employee with no incompatible function. If the online sports pool system can be configured such that any logged data is contained in a secure transaction file, a separate logging device is not required.

16.3. Online sports pool systems shall provide a mechanism for the Commission to query and export, in a format required by the Commission, all online sports pool system data.

16.4. Requirements for system specifications and sports pool system logging shall be detailed by the

Commission in the MICS. Sports pool operators and sports pool intermediaries shall address all such requirements in the internal controls submitted to the Commission for approval.

**§179-9-17. Additional reports for online sports pool; reconciliation; test accounts.**

17.1. An online sports pool system shall be designed to generate the reports required by this section or otherwise required by the Commission in a format approved by the Commission's Finance & Administration and Information Technology divisions. Additional reporting requirements shall be approved by the Commission for inclusion in the MICS.

17.2. All required reports shall be generated by the online sports pool system, even if the period specified contains no data to be presented. The report generated shall indicate all required information and contain an indication of "No Activity" or similar message if no data appears for the period specified.

17.3. All data required by this rule must be available in report image formats as well as database type formats as approved by the Director. The initial approved format is comma separated variables (CSV).

17.4. An online sports pool system shall, at a minimum, generate the daily reports for each gaming day in order to calculate the taxable revenue or to ensure the integrity of operations related to operating an online sports pool.

17.5. The sports pool operator and its sports pool intermediaries shall set up test accounts to be used to test each of the various components and operations of the online sports pool system in accordance with internal controls approved by the Commission.

**179-9-18. Mobile application and/or interactive platform requirements.**

18.1. Each system that provides content to a sports pool system shall:

18.1.1. Maintain internal controls for all aspects of gaming operations prior to implementation and any time a change is made thereafter. The internal controls shall include detailed procedures for system security, operations, and accounting;

18.1.2. Maintain internal controls approved by the Director that address compliance with all online sports pool system requirements;

18.1.3. Employ personnel responsible for duties of an IT Department, ensuring the operation and integrity of the sports wagering and reviewing all reports of suspicious behavior as determined and approved by the Commission;

18.1.4. Perform an annual system integrity and security assessment conducted by an independent professional selected by the operator, subject to the approval of the Commission. The independent professional's report on the assessment shall be submitted to the Commission annually in compliance with the requirements provided in section 3.5 of this rule; and

18.1.5. Provide the Director with physical and logical access to the system to review and collect all data contained therein.

**§179-9-19. Temporary approvals for expedited implementation.**

19.1. The Director may approve certain system, network, operational, and other standards necessary

to implement sports wagering on a temporary basis as long as a deadline for full-compliance with permanent standards is provided at the time of approval. Extensions may be approved by the Director if justification is provided to show that such additional time in the temporary environment is reasonably necessary.

**§179-9-20. Racetrack Modernization Fund and Historic Resort Hotel Modernization Fund Reimbursement.**

20.1. The sports pool operator shall submit requests for reimbursement from its Racetrack Modernization Fund or Historic Resort Hotel Modernization Fund allowance, whichever is applicable, to the Director for any new and unused purchases of sports pool systems or other equipment necessary to modernize the facility to accept sports wagers. The Commission may further define covered acquisitions by issuing Lottery Commission Policy Statements.

**§179-9-21. Advertising.**

21.1. The Director shall approve all advertising of sports wagering systems in advance of a sports pool operator, its sports pool intermediaries, its agents, or its affiliates publishing or otherwise releasing such advertisements. Further requirements shall be defined by the Commission in its MICS.

21.2. The Commission may set a certain amount or percentage of revenue that may be used for promotional credit, but any excess promotional credit offered must be accounted for as taxable revenue. This amount will be set quarterly by Commission Order.

**§179-9-22. Licensing and Registration.**

22.1. An individual or entity, employed with or contracted by a sports pool operator a sports pool intermediary, to perform certain activities for the operation of an sports wagering system having assigned duties as a sports wagering manager or a customer service representative with access to confidential player account information and the ability to modify player accounts shall be licensed as an occupational licensee. Persons or individuals holding an occupational license pursuant to the Interactive Wagering Act, W. Va. Code §29-22E-1, et seq., and Interactive Wagering Rule, §179-10-1, et seq., are not required to apply for or obtain additional occupational licensure pursuant to the Sports Wagering Act and this rule.

22.2 In addition, certain affiliate entities, such as marketing affiliate companies, that are not involved directly in the offering or placement of the wager shall be deemed to be a Registrant rather than a licensee for the purpose of licensing and registration and shall be subject to the following requirements:

22.2.1. Affiliate entities shall register with the West Virginia Lottery Commission on or before the date such entity is contractually obligated or plans to offer its services in West Virginia to West Virginia residents;

22.2.2. Affiliate entities shall renew its registration each year on or before a certain date as set by the Commission for the forthcoming year; and

22.2.3. Affiliate entities shall pay a registration fee of \$100.00 at the time of initial registration and each registration renewal.