

<h1 style="margin: 0;">Regulatory Analysis Form</h1> <p style="margin: 0;">(Completed by Promulgating Agency)</p>		<p><i>INDEPENDENT REGULATORY REVIEW COMMISSION</i></p>
<p>(All Comments submitted on this regulation will appear on IRRC's website)</p>		
<p>(1) Agency Pennsylvania Gaming Control Board</p>		<p>IRRC Number: 3248</p>
<p>(2) Agency Number: 125 Identification Number: 226</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.**

Documents are attached.

(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:

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|-------------------------------------------------------------------------------------------|-------------------------------|
| 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.