



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

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### Business Impact Analysis

**Agency, Board, or Commission Name:** Ohio Casino Control Commission (“Commission”)

**Rule Contact Name and Contact Information:**

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**Regulation/Package Title (a general description of the rules’ substantive content):**

OCCC 2022 Sports Gaming Rules Batch 3 – (Ohio Adm.Code Chapters 3775-12 (Sports gaming voluntary exclusion program), and 3772-12 (Voluntary exclusion program and responsible gaming plans) and rules 3775-1-09, 3775-4-04, and 3775-4-07)

**Rule Number(s):** 3775-1-09, 3775-4-04, 3775-4-07, 3775-12-01, 3772-12-01, 3772-12-02, 3772-12-03, 3772-12-04, 3772-12-05, 3772-12-06, 3772-12-07

**Date of Submission for CSI Review:** 04/06/2022

**Public Comment Period End Date:** 04/20/2022

**Rule Type/Number of Rules:**

New/ 4 rules

No Change/ 0 rules (FYR? N/A)

Amended/ 7 rules (FYR? Yes)

Rescinded/ 0 rules (FYR? N/A)

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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### **Reason for Submission**

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☒ Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. ☒ Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. ☒ Requires specific expenditures or the report of information as a condition of compliance.
- d. ☒ Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

### **Regulatory Intent**

2. Please briefly describe the draft regulation in plain language.

*Please include the key provisions of the regulation as well as any proposed amendments.*

These rules are the Commission's third batch of sports gaming rules, related to the sports gaming involuntary exclusion list, type C sports gaming proprietor and host licensure, and voluntary exclusion program. The rules are adopted pursuant to House Bill 29 of the 134<sup>th</sup> General Assembly ("HB 29"). That bill set a comprehensive licensing and regulatory framework for sports gaming, under the jurisdiction and broad rulemaking authority of the Commission. The bill also requires that this business sector start by January 1, 2023, under the Commission's regulation. To implement HB 29 in a timely manner, the Commission is advancing the below rules for approval.

#### *Involuntary Exclusion*

- **3775-1-09 (new), titled "Sports gaming involuntary exclusion list."** This rule governs the sports gaming involuntary exclusion list and contains explicit statements that individuals on the list cannot enter a sports gaming facility and are prohibited from participating in sports gaming in the state. Under this rule, a sports gaming proprietor must notify the Commission if an individual on the involuntary exclusion list has entered

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the facility or has engaged in sports gaming conducted by the proprietor in Ohio. This rule does not preclude a sports gaming proprietor from ejecting an individual for any lawful reason. The purpose of this rule is to implement sections 3772.031, 3772.04, and 3775.13 of the Revised Code, which require the Commission to operate an involuntary exclusion list that proprietors must implement and abide by.

#### *Type C Sports Gaming Licensing*

- **3775-4-04 (new), titled “Type C sports gaming proprietor licensure.”** This rule governs the application and licensure of type C sports gaming proprietors. The rule states that these applicants must complete any applicable forms, pay an application fee of fifteen thousand dollars, and establish their suitability by clear and convincing evidence. In evaluating an applicant, the Commission will consider several statutory factors and factors common in the gaming industry, including those related to suitability and economic development. In addition, the rule outlines certain statutory requirements licensees must undertake upon licensure, including payment of license fees and a surety bond to ensure all annual-installment license fees are made. Lastly, the rule requires licensees to enter a valid a contract with the state lottery commission to operate lottery sports gaming pursuant to Chapters 3770 and 3775 of the Revised Code. The purpose of this rule is to implement R.C. sections 3770.24, 3775.03, 3775.04, and 3775.041 and to ensure that only eligible, suitable, and otherwise qualified persons are operating sports gaming self-service or clerk-operated sports gaming terminals in Ohio.
- **3775-4-07 (new), titled, “Type C sports gaming host licensure.”** This rule governs the application and licensure of type C sports gaming hosts. The rule states that these applicants must complete any applicable forms and pay an application fee of one thousand dollars. In evaluating an applicant, the Commission will consider several factors, including, whether the applicant has been issued a liquor permit or lottery sales license in the state. In addition, the Commission will consider whether the applicant has or will enter into an agreement with a type C sports gaming proprietor to offer sports gaming at its facility and whether the lottery commission recommends the applicant. Lastly, the rule describes the procedure for requesting renewal of a host license. The purpose of this rule is to implement R.C. sections 3770.25, 3775.03, 3775.04, and 3775.07 and to ensure that only eligible persons are engaged in offering self-service or clerk-operated sports gaming terminals in their Ohio liquor permit premises.

#### *Voluntary Exclusion Program and Responsible Gambling Plans*

- **3775-12-01 (new), titled, “Sports gaming voluntary exclusion program.”** This rule states that the sports gaming voluntary exclusion program (“VEP”) established by R.C. 3775.02 is to be operated in the manner described in chapter 3772-12 of the Administrative Code which governs the Ohio VEP. The Ohio VEP is the combined VEP

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governing the state's casinos, video lottery terminal facilities, and now sports gaming facilities. The purpose of this rule is to implement Chapter 3775.02 of the Revised Code and to provide a consistent set of rules governing the state's VEP.

- **3772-12-01 (amendment), titled, “Definitions, purpose, and scope of the Ohio voluntary exclusion program.”** This rule governs the establishment of the Ohio voluntary exclusion program, of the “Ohio VEP,” administered in tandem with the Lottery Commission. Participants in the Ohio VEP agree to exclude themselves from all casino facilities and video lottery terminal facilities in the state, called “excluded facilities.” The rule also provides that participation in the program does not prohibit anyone from entering an excluded facility for purposes of employment. The amendment adds the sports gaming voluntary exclusion program to the combined “Ohio VEP”. In addition, the amendment adds sports gaming facilities to the list of “excluded facilities”. Lastly, the amendment defines “Excluded entity” which includes all casino facilities, video lottery terminals, and all sports gaming conducted by sports gaming proprietors in the state. The purpose of this rule is to implement the Ohio VEP, while leaving open employment options for the participating individuals along with helping curtail disordered gambling in the state. Moreover, the rule, and this Chapter in general, is part of the Commission required rules under both R.C. 3772.03 and 3775.02.
- **3772-12-02 (amendment), titled, “Ohio VEP application.”** This rule details the method to apply for the Ohio VEP, the minimum lengths of time applicants may select for exclusion, and that if an individual completes the application while impaired then it will be rejected. The amendment expands application availability by creating an online VEP portal system which can be used to submit an Ohio VEP application, including amending certain aspects of the commissions’ staff duties—which will be automated when individuals sign up via the online portal. The purpose of this rule is to give patrons who feel they may have a gambling problem the ability to voluntarily exclude themselves for the individual’s selected minimum length of time, aiding in combatting disordered and problem gambling in Ohio. Moreover, the rule, and this Chapter in general, is part of the Commission required rules under both R.C. 3772.03 and 3775.02.
- **3772-12-03 (amendment), titled, “Responsibilities of voluntarily excluded individuals.”** This rule details the obligations of excluded individuals during their selected exclusion period. It also details the consequences for an excluded individual should the individual violate the terms of the program, including potential criminal trespass charges and the forfeiture of anything of value that has been converted into or attempted to be converted into a wagering instrument. The rule also states that a participant may always request to extend the length of exclusion but may not seek to shorten the minimum length of said exclusion. The amendment mainly adds language to streamline and incorporate the sports gaming voluntary exclusion program into the rule. The amendment also discerns the location of where seized funds will be deposited. For example, seized assets at a casino facility will be deposited in the state problem gambling fund and seized funds at a lottery terminal facility will be deposited to the state lottery for

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use in problem gambling prevention. All other seized assets, including those related to online sports gaming, will be deposited into the problem sports gaming fund. Lastly, the amendment clarifies that a sports gaming wager that is pending at the time of a participant's enrollment into the Ohio VEP may not be cancelled by either party. The purpose of this rule is to ensure that individuals participating in the Ohio VEP follow the rules of the program, hopefully assisting them on their journey to responsible gambling. Moreover, the rule, and this Chapter in general, is part of the Commission required rules under both R.C. 3772.03 and 3775.02.

- **3772-12-04 (amendment), titled, “Responsibilities of excluded entities or facilities.”** This rule prescribes the minimum responsibilities of excluded entities and facilities to ensure compliance with the Ohio VEP. The rule provides that excluded entities and facilities must maintain a system for indicating whether an individual is in the Ohio VEP and that the entities must check and update their database with changes to the list at least once every seven days. The rule also currently describes the reporting procedures for when an Ohio VEP individual is found on the premises of a casino. The amendment streamlines language, adds “excluded entities”, and adds that those VEP members found to be engaging in sports gaming through an online sports pool must be reported to the Commission within 72 hours—while retaining immediate notification for casino, where the Commission has law enforcement officers staffed 24/7. The amendment also requires excluded entities and facilities to provide a quarterly report of the number of Ohio VEP participants who were denied entry or sign-in to a casino facility, sports gaming facility, or online sports pool—helping the commissions study the efficacy of the program. Lastly, the amendment explicitly states no pending wager can be voided by either party during the participant's enrollment in the Ohio VEP. The purpose of this rule is to ensure that casino and sports gaming facilities help individuals on the VEP on their journey to responsible gambling. Moreover, the rule, and this Chapter in general, is part of the Commission required rules under both R.C. 3772.03 and 3775.02.
- **3772-12-05 (amendment), titled, “Removal from the Ohio voluntary exclusion program.”** This rule prescribes how participants in the Ohio VEP may remove themselves from the program. The rule states that participants will not automatically be removed from the program upon the expiration of the selected exclusion; rather each participant must request removal from the Ohio VEP. The amendment removes the requirement that lifetime VEP members must undergo a problem gambling assessment with a medical professional prior to being removed from the program, as the commission is working on educational videos and materials that will instead be incorporated into the Ohio VEP portal for all participants seeking enrollment or removal in the program. The purpose of this rule is to ensure an efficient VEP removal process, while providing for appropriate safeguards, including requiring an individual to make an affirmative choice to opt back into gambling. Moreover, the rule, and this Chapter in general, is part of the Commission required rules under both R.C. 3772.03 and 3775.02.
- **3772-12-06 (amendment), titled, “Disordered and problem gambling plan.”** This rule details the procedures that must be included in each excluded entity's and excluded

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facility's disordered and problem gambling plan, as it relates to their status as an entity regulated by the Commission. This rule provides procedures regarding the implementation and enforcement of the Ohio VEP, providing responsible gambling materials to patrons, and the excluded entity's and excluded facility's commitment to preventing underage gambling and gambling by persons who are impaired by drugs or alcohol. The amendment replaces the term "compulsive gambling" with "disordered gambling," which respects the updated appropriate terminology in this area. In addition, the amendment adds those sports gaming excluded entities and facilities to the list of those that must submit the plan. Lastly, the amendment further clarifies the information which must be provided to the Commission in the quarterly and annual reports. The purpose of this rule is to ensure that excluded entities and facilities are aiding the Commission in productively combatting disordered and problem gambling. Moreover, the rule, and this Chapter in general, is part of the Commission required rules under both R.C. 3772.03 and 3775.02.

- **3772-12-07 (amendment), titled, "Prior voluntary exclusions."** This rule is a grandfather provision that allows participants who joined the OCCC VEP prior to March 1, 2019, and have not yet sought removal, to continue their exclusion from only the four casino facilities. If the individual chooses to join the Ohio VEP, the length of exclusion the individual indicates on the Ohio VEP application supersedes the individual's previously selected length of exclusion and expands the list of excluded properties to include all excluded entities and facilities. The new rule allows participants of the "Ohio VEP" who joined after March 1, 2019, and prior to the effective date of this rule, and have not sought removal, to continue their participation and voluntary exclusion from only the four casino facilities and seven video lottery terminal facilities in the state of Ohio. The amendment allows individuals to still join the updated Ohio VEP and the length of exclusion the individual indicates on the updated Ohio VEP application supersedes the individual's previously selected length of exclusion and expands the list of excluded properties to include the excluded entities and facilities which are casinos, sports gaming facilities, or online sports pools. This will allow individuals to make affirmative choices as to what gambling they may be able to engage in responsibly and does not change the rules of their original commitment with the state. The purpose of this rule is to maintain the Commission's commitment to currently existing voluntarily excluded individuals and Ohio VEP participants, while providing them with the opportunity to participate in the updated Ohio VEP, upon an informed decision. Moreover, the rule, and this Chapter in general, is part of the Commission required rules under both R.C. 3772.03 and 3775.02.

**3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

R.C. 3770.24, 3770.25, 3772.01, 3772.03, 3772.031, 3772.04, 3772.18, 3775.01, 3775.02, 3775.03, 3775.04, 3775.041, 3775.07, and 3775.13.

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- 4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?**

*If yes, please briefly explain the source and substance of the federal requirement.*

Not Applicable.

- 5. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

This question is not applicable because the federal government does not regulate sports gaming in this state. Rather, sports gaming is permitted and controlled by Ohio's Sports Gaming Control Act (i.e., R.C. Chapter 3775).

- 6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

R.C. Chapters 3772 and 3775 require the Commission to ensure the integrity of sports gaming and to prescribe rules for how sports gaming should be conducted, including rules related to involuntary exclusion, licensing, and responsible gambling. To ensure the integrity of sports gaming and requirements of R.C. Chapters 3770, 3772, and 3775, it is imperative to protect sports gaming patrons by ensuring individuals on the involuntary exclusion list are prohibited from engaging in sports gaming in the state. It is also imperative to ensure the integrity of sports gaming by ensuring the type C proprietors and hosts, which operate or serve as the placement site for self-service or clerk-operated sports gaming terminals, meet the statutory requirements of R.C. Chapter 3775. Additionally, it is imperative to protect sports gaming patrons by establishing a combined sports gaming voluntary exclusion program and ensure that all sports gaming proprietors are promoting responsible gambling and implementing the statutorily required voluntary exclusion program through implementation of the Ohio VEP. Moreover, these rules implement the General Assembly's statutory directives for the Commission to stand up the regulatory framework for sports gaming by January 1, 2023—as the Commission will need to license the type C proprietors and hosts and establish involuntary and voluntary exclusion for sports gaming. The licensing and voluntary exclusion rules, in particular, will need to be implemented well ahead of this date. For the licensing rules, the quick implementation of these rules is necessary so that the Commission can receive applications, evaluate those applications, and approve them in time for stakeholders to have clear and consistent expectations going into launch. As for the VEP rules, these need to be implemented ahead of launch to allow individuals with disordered and problem gambling issues the opportunity to voluntarily exclude themselves before gambling is already at their fingertips and throughout bars and restaurants in the state.

- 7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

Overall, the Commission will measure the success of these rules in terms of whether they help the Commission meet its statutory mission to ensure the integrity of sports gaming. This can

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be done in two ways: first, through evaluating whether the public benefit of implementing and enforcing these rules outweigh their administrative and business costs. And second, through analyzing the regulated community's comments about requests for amendments to the rules or for waivers or variances to or from the rules.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

No.

### **Development of the Regulation**

- 9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

Even before the passage of HB 29 on December 8, 2021, the Commission took several steps to engage with the stakeholder community regarding the sports gaming market and the development of potential regulations. This included several meetings, phone calls, and emails, exchanged with several different stakeholders, ranging from sports teams, Ohio's current casinos and racinos, sportsbook operators, small retail establishments, vendors and suppliers in the space, and—most importantly—Ohio's general citizenry.

This engagement continued after the passage of HB 29, where the Commission then further provided information to stakeholders through more formal means. Soon after the bill's passage, the Commission created its [sports gaming webpage](#), where it posts relevant information related to sports gaming for all members of the public, including its draft rules, FAQs, and presentations it has made to the Commission, explaining both HB 29 and the process the Commission will use to implement the sports gaming regulations. Moreover, this website is not something stakeholders have to proactively check for updates, the Commission has created a [sports gaming listserv](#) to ensure all interested parties can be notified when the Commission posts new drafts of rules or new information on sports gaming. The link to the listserv is publicly available on the Commission's website. To help build this listserv, the Commission also sent emails to its casino gaming and fantasy sports listservs, notifying those stakeholders (of which the Commission expects significant cross pollination) of the new sports gaming-specific listserv and how to sign up. This listserv now has almost four hundred different stakeholders. All of these outreach efforts have led to additional calls, emails, and meetings, regarding the Commission's draft regulations.

Using the listserv and website posting, the Commission is currently sending out each batch of rules for two rounds of informal stakeholder comment. In between each round, staff is

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compiling and reviewing all comments received. These comments are then held up against HB 29 and evaluated based on whether they comport with the statute, help ensure the integrity of sports gaming, and whether any potential business impact of the rules or comments are justified. Changes made between rounds are redlined for stakeholders, so they can see the results of a comment round. The Commission plans to continue this pattern for stakeholders, allowing ample feedback from stakeholders even before the formal process starts with CSI while still moving quickly to accomplish a sports gaming market launch ahead of the January 1, 2023, mandate. During this time, staff is also taking phone calls and meetings, as well as answering emails, regarding specific questions stakeholders may have about the rule drafts.

In reviewing these specific rules, the Commission's website was updated and an email was sent on January 31, 2022, to the Commission's sports gaming listserv. (Exhibits 1 & 2). Stakeholders were asked to submit any written comments on these rules by 5:00 p.m. on February 11, 2022. These stakeholders included employees or representatives from casinos, racinos, small retail establishments, sportsbooks, suppliers, and problem gambling support services. At the same time, the Commission also sent the VEP rules, in a track changes format to the casino gaming listserv, as these rules will also govern casino gaming. (Exhibits 3 & 4). As discussed above, this first round of comments were reviewed by staff, changes were made with redlines, and the rules were sent back out to stakeholders. This second round was sent out on March 1, 2022, with comments due by 5:00 p.m. on March 11, 2022. (Exhibits 5 & 6). Again, staff reviewed all comments, redlined any changes, and the rules were then prepared to begin the formal filing process, including consideration at a public Commission meeting on April 6, 2022.

**10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

As discussed in Question 9 above, the initial draft of Batch 3, itself, was a direct result of engagement with and input from the stakeholder community, and the initial draft included many thoughts, comments, and ideas provided by stakeholders. Additionally, the Commission received written comments from 9 stakeholders, enclosed as Exhibits 7 (round 1) and 8 (round 2). As a result of those comments, the Commission made several changes to the draft rules. Some examples of these changes include:

- Clarifying that “commercially reasonable methods” applies to preventing involuntary excluded individuals from entering the sports gaming facility and precluding them from engaging in sports gaming. 3775-1-09(C).
- Removing the requirement that sports gaming proprietors notify the Commission if an individual on the involuntary exclusion list attempts to enter a sports gaming facility or attempts to engage in sports gaming. 3775-1-09(D).

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- Clarifying that the report required by R.C. 3775.13(B)(2) can be combined with the monthly report under 3775-1-09 (D). 3775-1-09(F).
- Better clarifying the definition of “excluded entity” to include all sports gaming conducted by sports gaming proprietors as defined in section 3775.01 of the Revised Code and the rules adopted thereunder. 3772-12-01(A)(1).
- Specifying the location where Ohio VEP seized assets will be deposited. 3772-12-03(B).
- Clarifying that an Ohio VEP participant still has a right to receive funds owed from a sports wager placed prior to their enrollment but which the outcome was decided after their enrollment. 3772-12-03(C).
- Specifying that a pending sports gaming wager cannot be voided solely due to a participant’s enrollment in the Ohio VEP. 3772-12-03(C).
- Limiting the scope of proprietors that need to provide immediate notification of when an Ohio VEP participant is found on the premises or engaging in sports gaming to casinos. 3772-12-04(C).
- Reducing the reporting requirement from monthly to quarterly for Ohio VEP participants who were denied entry or sign-in to a casino facility, sports gaming facility, or online sports pool. 3772-12-04(E).
- Specifying an exception for the reporting requirement when an Ohio VEP participant is found on premises for the purpose of seeking removal from the Ohio VEP or claiming payments owed. 3772-12-04(E).
- Changing references from “compulsive gambling” to “disordered gambling.” 3772-12-04(F), -06 (title), and -06(A).
- Broadening the scope of information that can be provided to individuals as a part of the problem gambling plan from only “gamblers anonymous programs” to any “peer support groups.” 3772-12-06(A)(3)(e) and -06(A)(4).
- Clarifying and listing the specific information that must be provided in the annual problem gambling report. 3772-12-06(B)(1)-(3).
- Changing the terminology used when discussing suicide to maintain consistency with currently recommended language. 3772-12-06(B).

**11. What scientific data was used to develop the rule or the measurable outcomes of the rule?  
How does this data support the regulation being proposed?**

This question does not apply to these rules because no scientific data was necessary to develop or measure their outcomes. Instead, Commission staff reviewed the Commission’s statutory mandates, the rules currently in effect in its other regulatory frameworks, and looked at how other jurisdictions approached the topics in these rules. This included several jurisdictions stakeholders themselves recommended to the Commission, including New Jersey, Arizona, Colorado, Michigan, Indiana, and Illinois. Additionally, as outlined above, staff also reviewed,

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considered, and used the comments of stakeholders in developing these rules. In so doing, the Commission was able to use, as much as possible, rules the regulated community is accustomed to in other jurisdictions, with minor adaptations to remain in compliance with Ohio law and the Commission's general procedures.

**12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

Commission staff carefully reviewed and considered the statutes and rules adopted in other jurisdictions, in particular those jurisdictions listed in Question 11. In reviewing these statutes and rules, staff considered past practices of the Commission in its other regulatory frameworks, any stakeholder comments, and the current trends in the sports gaming regulatory environment. As such, these rules are a conglomeration of the rules used in other jurisdictions with adaptations made for Ohio law and current industry trends.

**13. Did the Agency specifically consider a performance-based regulation? Please explain.**

*Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

Many of the rules in this batch are voluntary exclusion and licensing related and thus are largely constrained by the statutory factors laid out by the General Assembly. As required by the law for type C proprietors, the Commission will consider the past and present performance of persons engaged in sports gaming and their ability to comply with the law in making licensing determinations. As required by the law for type C hosts, the Commission will consider whether the applicant has previously obtained a liquor permit and lottery license along with whether the lottery commission recommends the applicant.

As for those amendments related to voluntary exclusion, these amendments are largely not performance-based because they govern a program offered directly to Ohio citizens and not the conduct of businesses. However, rule 3772-12-06, the responsible gambling plan and the primary rule governing business compliance with responsible gambling measures, is a performance-based regulation, where the Commission sets out minimum requirements for excluded entities and facilities but allows them to set out their own plans for compliance. Moreover, Ohio Adm.Code 3775-1-04 allows the Commission to look at all regulations on a performance basis by allowing sports gaming proprietors to seek waivers and variances from these rules, which the Commission will evaluate on a case-by-case basis and may grant, as long as it determines that doing so is in the public's best interest. Past performance of a sports gaming proprietor may be considered in determining whether a waiver from any specific provisions of these rules could be granted.

**14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

This question largely does not apply to these rules because no other regulations in these areas currently exist with respect to sports gaming. However, the Commission has reached out to and is working closely with several of the other named agencies in HB 29 to ensure that the Commission is not promulgating rules or standards that conflict with or encroach upon the regulatory authority of other Ohio agencies, particularly the Ohio Lottery Commission and the Department of Development. In particular respect to these rules, the Commission has worked closely with the Lottery to update the two agencies' existing voluntary exclusion program—creating a consistent and nonduplicative program across all casino, VLT, and sports gaming operations in the state. Moreover, the Commission and the Lottery worked closely together to ensure the Commission's type C licensing regulations are not in conflict with the Lottery's regulations and statutory duties. The Commission will continue to work with these agencies as the sports gaming rules make their way through the process..

**15. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

The Commission ensures any issues that arise are funneled through the respective division director and vetted with the Legal Division before being brought to the Executive Director, so that he can coordinate a consistent response and have staff conduct outreach to the regulated community. Specifically, those issues related to licensing are handled by the Commission's licensing staff, which is overseen by a single director in the Commission's central office. And any issues related to compliance are managed by the Commission's compliance staff, again overseen by a single director in the Commission's central office. Moreover, the issuance, denial, or sanctioning of any license (other than the issuance of provisional licenses) can only be approved by the Commission at a public meeting through a vote. Therefore, the regulated community can expect consistent and transparent licensing and compliance decisions.

The amendments in this package largely relate to responsible gambling and specifically voluntary exclusions. Many of these are handled by the Commission's Director of Problem Gambling Services at Commission headquarters. Any issues that arise at the facilities are funneled to the Commission's central office in Columbus, Ohio, where the Director of Problem Gambling Services and legal staff work with the Executive Director to coordinate a consistent response and conduct outreach to the regulated community.

**Adverse Impact to Business**

**16. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

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**a. Identify the scope of the impacted business community; and**

The regulated business community consists of all persons who may conduct sports gaming in Ohio, including proprietors, services providers, suppliers, or type C gaming hosts, as well as those providing responsible gambling prevention and treatment services in the state.. These include Ohio’s professional sports teams and events, casinos and racinos, as well as small retail establishments, gaming-related supply or service companies, sportsbook operators, and Ohio’s counselors, doctors, and prevention specialists.

**b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and**

The nature of the potential adverse impact from these rules includes fees and bonds related to applications and licensing. In addition to these fees, applicants will incur administrative costs related to the submission of applications. Sports gaming entities will also incur costs and employee time and payroll related to the submission and adherence to responsible gambling plans, aimed at lowering the costs of Ohio’s needed responsible gambling prevention and treatment services. Sports gaming entities will also incur costs related to the submission of involuntary exclusion and Ohio VEP violation reports. Finally, these entities may also face fines or other penalties related to noncompliance.

**c. Quantify the expected adverse impact from the regulation.**

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.*

**3775-1-09 “Sports gaming involuntary exclusion list.” (new)**

The Commission anticipates minimal business impact from this rule. The minimal impact originates from the sports gaming proprietors needing to exclude individuals on the list and from the requirement that the sports gaming proprietors notify the Commission of any involuntarily excluded individuals who are on property or engaging in sports gaming in this state, including both individuals on the Commission’s involuntary exclusion list or those on the operator’s own exclusion—if that exclusion is for integrity purposes. However, these minimal impacts are blunted by the fact that the Commission is required to adopt a rule on this topic by R.C. 3772.031 and 3775.13 and that these requirements are either explicitly stated there or naturally flow from those statutory provisions. Moreover, the Commission recognizes the seriousness of placing an individual on an involuntary exclusion and has not done so since 2014—further limiting the practical impacts any business may face.

**3775-4-04 “Type C sports gaming proprietor licensure.” (new)**

The Commission anticipates this rule will have an adverse impact on business, but that the impact is justified and statutorily authorized. This impact will come from type C sports gaming

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proprietors needing to obtain a license, pay the fees associated with application and licensure, and submit the information necessary for the Commission to evaluate the statutory factors for licensure. As for fees, the rule requires an application fee of \$15,000; the installment license fees, as laid out in statute; and a surety bond necessary to cover future license fee installments. Both the license fees and the requirement of a bond necessary to cover license fees are statutorily set. R.C. 3775.04. The statute allows the Commission to set the application fee, R.C. 3775.04, and application fees are generally the only way the Commission is funded to regulate sports gaming. As such, the fee is necessary, not just to ensure the Commission is able to cover costs related to investigating qualifications for licensure, but to also fund any hearings referred from the Lottery Commission related to the type C proprietor for five years. As such, all fees in this rule are justified. Additionally, the costs for the submission of information, which will likely vary widely depending upon the business model of the proprietor, are also justified as the General Assembly specifically required the Commission to evaluate several different factors regarding eligibility, suitability, and economic development, spanning R.C. 3775.03, 3775.04, 3775.041, and 3775.09.

**3775-4-07 “Type C sports gaming host licensure.” (new)**

The Commission anticipates the rule will have an adverse impact on business, but that the impact is justified and statutorily authorized. This impact will come from type C sports gaming hosts needing to obtain a license, pay the fees associated with application and licensure, and submit the information necessary for the Commission to evaluate the statutory factors for licensure. As for fees, the license fee is statutorily set at \$1,000 by R.C. 3775.07(C) and is one of the few statutory license fees that go to the Commission and not other state funds. The statute then allows the Commission to set the application fee, R.C. 3775.07(B). In adopting this rule, the Commission is setting the application fee at \$1,000—however, it is allowing the \$1,000 application fee to be applied and cover 100% of the licensee fee if the applicant is approved for licensure. As such, the Commission believes the rule itself blunts much of the statutory business impacts related to fees. Moreover, type C sports gaming hosts will also have business impacts related to submitting statutorily-required information to obtain a license, but those impacts are greatly tailored by the legislature and the Commission to the limited risks involved in being a type C sports gaming host. Given this, type C sports gaming hosts will only need to submit biographical information, any planned proprietor they may be contracting with, and information related to base statutory eligibility—including existing liquor permits and a recommendation from the Lottery. Given that this information is statutorily required, the Commission does not anticipate the rule itself will have a business impact.

**3775-12-01 “Sports gaming voluntary exclusion program.” (new)**

The Commission does not anticipate a negative impact on business from this rule itself, as the rule merely points stakeholders to the Casino Control Commission’s and Lottery Commission’s combined Ohio VEP that will govern sports gaming exclusions. However,

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because this rule points to the general framework that will govern the sports gaming voluntary exclusion program, the Commission is filing this rule and has made it available for stakeholder comment. Any potential business impact would likely be triggered by other rules' substantive provisions, specifically, those found in 3772-12-04 and -06.

**3772-12-01 “Definitions, purpose, and scope of the Ohio voluntary exclusion program.” (amendment)**

The Commission does not anticipate a negative impact on business from the amendments to this rule. The amendments in this rule provide definitions of terms used when discussing the Ohio VEP, which will now include sports gaming, and provide the general framework that will govern the combined voluntary exclusion program. Instead, any potential business impact from these definitions and purpose statements would likely be triggered by other rules' substantive provisions, specifically, those found in 3772-12-04 or -06. That being said, the Commission is still filing this rule and has made it available for stakeholder comment.

**3772-12-02 “Ohio VEP application.” (amendment)**

The Commission does not anticipate a negative impact on business from the amendments to this rule, as it simply states how Ohio's citizenry can sign up for the Ohio VEP. These amendments detail a new method for those who feel they may not be able to gamble responsibly to apply for self-exclusion. However, because this rule provides the general framework that will govern the application process for the Ohio voluntary exclusion program, including updated sports gaming language, the Commission is filing this rule and has made it available for stakeholder comment. Any potential business impact would likely be triggered by other rules' substantive provisions, specifically, those found in 3772-12-04 or -06.

**3772-12-03 “Responsibilities of voluntarily excluded individuals.” (amendment)**

The Commission does not anticipate a negative impact on business from the amendments to this rule. This rule details the obligations of excluded individuals during their selected exclusion period—not the duties of business. The amendments detail where seized funds will be deposited and update language to factor in sports gaming. However, because this rule provides the general framework that will govern the responsibilities of self-excluded individuals, including in the context of sports gaming, the Commission is filing this rule and has made it available for stakeholder comment. Some stakeholders did see the potential for business impacts, including individuals trying to cancel already pending bets by signing up for this important problem gambling tool. As such, the Commission acknowledged and eliminated this potential impact by amending the rule to specifically not allow any party to cancel any already pending bet simply because an individual signs up for the Ohio VEP. Any further

potential business impact would likely be triggered by other rules' substantive provisions, specifically, those found in 3772-12-04 or -06.

**3772-12-04 “Responsibilities of excluded entities or facilities.” (amendment)**

The Commission anticipates a minimal impact on business from the amendments to this rule. This rule details the minimum responsibilities of excluded entities and facilities to ensure compliance with the Ohio VEP. Business costs will include employee time and payroll associated with the submission of reports required by the rule, including reports of when an individual is found on property or otherwise found to be participating in sports gaming and when an excluded individual is denied access to sports gaming or the sports gaming facility. However, any costs associated with submission of the report is outweighed by this rule's positive impacts combatting disordered and problem gambling and the fact that the voluntary exclusion program is part of the Commission required rules under both R.C. 3772.03 and 3775.02. Moreover, these reports will help Ohio's universities, prevention specialists, and treatment specialists better study the efficacy of the program and the impacts of gambling—as contemplated by the General Assembly in R.C. 3775.02's required information sharing rules.

**3772-12-05 “Removal from the Ohio voluntary exclusion program.” (amendment)**

The Commission does not anticipate a negative impact on business from the amendments to this rule, as this rule simply details the methods by which participants in the Ohio VEP may remove themselves from the program. However, because this rule provides the general framework that will govern how participants can be removed from the Ohio VEP, the Commission is filing this rule and has made it available for stakeholder comment. Any potential business impact would likely be triggered by other rules' substantive provisions, specifically, those found in 3772-12-04 or -06.

**3772-12-06 “Disordered and problem gambling plan.” (amendment)**

The Commission anticipates a minimal impact on business from the amendments to this rule. This rule provides procedures regarding the implementation and enforcement of the Ohio VEP, as well as responsible gambling plans and measures to promote responsible gambling required of excluded entities and facilities. The potential costs include those related to providing responsible gambling materials to patrons, trainings to employees, and ensuring the excluded entity's and excluded facility's commitment to preventing underage gambling and disordered or problem gambling. In addition, the amendments add those sports gaming excluded entities and facilities to the list of those that must submit quarterly and annual reports. While there are costs associated with the submission of reports and implementation of the problem gambling plan, these costs are common to gambling regulatory structures, are statutorily contemplated (R.C. 3775.02 and 3772.18), and are justified by the importance of responsible gaming to ensuring the welfare of Ohio's citizens.

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### **3772-12-07 “Prior voluntary exclusions.” (amendment)**

The Commission does not anticipate a negative impact on business from the amendments to this rule. The rule allows participants of the “Ohio VEP” who joined after March 1, 2019, and prior to the effective date of this rule, and have not sought removal, to continue their participation and voluntary exclusion from only the four casino facilities and seven video lottery terminal facilities in the state of Ohio. The amendment allows individuals to still join the updated Ohio VEP, which will include sports gaming, and have the length of any new exclusion supersede the individual’s previously selected length of exclusion. Because the amendments to this rule impact those who joined the Ohio VEP prior to the legalization of sports gaming, the Commission is filing this rule and has made it available for stakeholder comment. Any potential business impact would likely be triggered by other rules’ substantive provisions, specifically, those found in 3772-12-04 or -06. That being said, the Commission is aware that some businesses support the automatic exclusion from sports gaming for those individuals already enrolled in the VEP as it would be easier to implement. However, the Commission believes any business impact can be controlled by businesses themselves who are free to ban any patron via private business means, instead of springing an additional, non-agreed to, exclusion on individuals already enrolled.

#### **17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

The regulatory intent justifies any adverse impact because HB 29 requires the Commission to ensure the integrity of sports gaming, specifically by licensing, regulating, investigating, and penalizing those involved in sports gaming in a manner consistent with the Commission’s authority to do the same with respect to casino gaming. Moreover, the bill gives the Commission broad authority to adopt rules that cover topics such as licensure and voluntary and involuntary exclusion. As such, any business impact is justified as statutorily contemplated.

Moreover, the regulatory intent justifies any adverse impact because sports gaming is a highly regulated industry and is accustomed to detailed regulations in every jurisdiction. Unregulated gaming poses a threat to the public welfare and raises the potential for fraud and abuse. To mitigate these threats, the Commission, like other gaming regulatory bodies, is using its regulatory authority to establish a best practice framework in consultation with the regulated community. For a more detailed analysis of the individual justifications applicable to this specific rule, please see the answer given in Question 16c.

### **Regulatory Flexibility**

#### **18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

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Yes, these rules provide exemption or alternative means of compliance through Ohio Adm. Code 3775-1-04 (as pending), which permits the Commission, upon written request, to grant waivers and variances from the rules adopted under R.C. Chapter 3775, including these rules, if doing so is in the best interest of the public and will maintain the integrity of sports gaming in the State of Ohio.

**19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

To the extent R.C. 119.14 would apply to a violation of these rules, the Commission will provide verbal and written notification to the small business to correct the paperwork violation. Thereafter, the Commission would allow the small business a reasonable amount of time to correct the violation. The Commission and its staff would also offer any additional assistance necessary to aid in remediation of the violation. No administrative action would be taken unless the small business fails to remedy the violation within the reasonable time allotted by the Commission.

**20. What resources are available to assist small businesses with compliance of the regulation?**

The Commission and its staff are dedicated to working with members of the regulated community and the public to effectively and efficiently regulate sports gaming in this state. As a result, the following resources are available:

- Commission's mailing address: 100 E. Broad St., 20<sup>th</sup> Floor, Columbus, OH 43215
- Commission's toll-free telephone number: (855) 800-0058
- Commission's fax number: (614) 485-1007
- Commission's sports gaming webpage:  
<https://casinocontrol.ohio.gov/sportsgaming.aspx>, including [FAQs](#), [staff's presentation](#) on HB 29 and the rule making process, and all currently available draft regulations.
- Commission's email: [info@casinocontrol.ohio.gov](mailto:info@casinocontrol.ohio.gov)
- Commission's sports gaming listserv:  
<https://casinocontrol.ohio.gov/sportsgaming.aspx>

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**Cox, William**

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**From:** Ohio Casino Control Commission <Jessica.Franks@casinocontrol.ohio.gov>  
**Sent:** Monday, January 31, 2022 11:04 AM  
**To:** Cox, William  
**Subject:** Sports Gaming Rules for Comment

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# OHIO CASINO CONTROL COMMISSION

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Sports Gaming Stakeholders,

The Commission is sending out its third batch of sports gaming for the first round of stakeholder comment. As outlined in the Commission's [original sports gaming presentation](#), rules are being batched out according to subject matter and stakeholders will have the opportunity to review and comment on rules twice before the formal statutory process starts. The rules being provided for comment in this batch concern involuntary exclusions, Type-C entity licensing, and the voluntary exclusion program and responsible gambling plans.

The proposed versions of those rules can be found [here](#).

Also, the Commission has updated its [sports gaming FAQs](#) to include questions related to advertising, marketing, and player recruitment. The Commission will continue to update this page with additional information throughout the sports gaming implementation process.

Please feel free to forward this communication to anyone else you think may be interested in these rules. Additionally, anyone may sign up for the Commission's sports-gaming listserv themselves [here](#). If you would like to unsubscribe from this listserv, you may do so using the link located at the bottom of this email.

**If after reading and reviewing these rules you would like to provide written comments, please email them to**

**[rulecomments@casinocontrol.ohio.gov](mailto:rulecomments@casinocontrol.ohio.gov) by February 11 at 5:00 PM.**

While you will have additional chances to comment on these rules, including when they are filed with the state's Common Sense Initiative Office ("CSI"), please note that it is much easier and faster for the Commission and for stakeholders to work out any questions or comments directly before the rules start the formal process with CSI.



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**Cox, William**

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**From:** Ohio Casino Control Commission <Jessica.franks@casinocontrol.ohio.gov>  
**Sent:** Monday, January 31, 2022 2:42 PM  
**To:** Cox, William  
**Subject:** VEP Rules for Comment - Sports Gaming Updates

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# OHIO CASINO CONTROL COMMISSION

Casino Gaming Stakeholders,

The Commission is sending out amendments to those rules contained in Ohio Adm.Code 3772-12 (Voluntary Exclusion and Compulsive and Problem Gambling Plan Compliance Procedures) for stakeholder comment. These amendments are a result of the Commission preparing for the launch of sports gaming and very few amendments have been made that will change the program from the casino gaming perspective—other than allowing the Commission to take online VEP sign ups.

That being said, the proposed version of those rules can be found [here](#).

As always, please feel free to forward this communication to anyone else you think may be interested in these rules. Additionally, anyone may sign up for the Commission's casino-gaming listserv themselves [here](#). If you would like to unsubscribe from this listserv, you may do so using the link located at the bottom of this email.

**If after reading and reviewing these rules you would like to provide written comments, please email them to [rulecomments@casinocontrol.ohio.gov](mailto:rulecomments@casinocontrol.ohio.gov)**

by **February 11 at 5:00 PM.** Please note that if you are filing comments from both a casino gaming and a sports gaming perspective, there is no need to submit two separate sets of comments.

While you will have additional chances to comment on these rules, including when they are filed with the state's Common Sense Initiative Office ("CSI"), please note that it is much easier and faster for the Commission and for stakeholders to work out any questions or comments directly before the rules start the formal process with CSI.



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**Cox, William**

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**From:** Ohio Casino Control Commission <Jessica.Franks@casinocontrol.ohio.gov>  
**Sent:** Tuesday, March 1, 2022 10:09 AM  
**To:** Cox, William  
**Subject:** Sports Gaming Rules for Comment

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# OHIO CASINO CONTROL COMMISSION

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Sports Gaming Stakeholders,

The Commission is sending out its third batch of sports gaming rules for the second round of stakeholder comment. As outlined in the Commission's [original sports gaming presentation](#), rules are being batched out according to subject matter and stakeholders will have the opportunity to review and comment on rules twice before the formal statutory process starts. The rules being provided for comment in this batch concern involuntary exclusions, Type-C entity licensing, and the voluntary exclusion program and responsible gambling plans.

The proposed versions of those rules can be found [here](#).

Please feel free to forward this communication to anyone else you think may be interested in these rules. Additionally, anyone may sign up for the Commission's sports-gaming listserv themselves [here](#). If you would like to unsubscribe from this listserv, you may do so using the link located at the bottom of this email.

If after reading and reviewing these rules you would like to provide written comments, please email them to [rulecomments@casinocontrol.ohio.gov](mailto:rulecomments@casinocontrol.ohio.gov) by **March 11 at 5:00 PM.**

While you will have additional chances to comment on these rules, including when they are filed with the state's Common Sense Initiative Office ("CSI"), please note that it is much easier and faster for the Commission and for stakeholders to work out any questions or comments directly before the rules start the formal process with CSI.



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# OHIO CASINO CONTROL COMMISSION

## Stakeholder Comments – Batch 3, Comment Round 1

Involuntary Exclusion, Type C Entity Licensing, and Voluntary Exclusion  
Program and Responsible Gambling Plan

Comment Period: January 31, 2022 – February 11, 2022

**From:** [Robyn Bowers](#)  
**To:** [Rule Comments](#)  
**Cc:** [Sarah Brennan](#); [Jeremy Kolman](#)  
**Subject:** Rules- BetMGM Comment  
**Date:** Thursday, February 10, 2022 3:20:07 PM  
**Attachments:** [image005.png](#)  
[image006.png](#)  
[Ohio Sports Gaming Rules Batch 2 Round 1 with BetMGM comments.docx](#)  
[Ohio Sports Gaming Rules Batch 3 Round 1 with BetMGM comments.docx](#)

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To whom it may concern,

Please find attached BetMGM comments for batch 2 and 3.

Kind Regards,

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**BETMGM**



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**Rule 3772:1-1-01 | Definitions.**

- (A) The words and terms defined in section 3775.01 of the Revised Code are used in this division as they are defined in that section, unless otherwise specified.
- (B) As used in Chapter 3775. of the Revised Code and rules adopted thereunder, the following words have the following meanings, unless the context clearly indicates otherwise:
- (1) “Application” means the total written materials, including the instructions, forms, and other documents issued by the commission, comprising an applicant’s request for a license.
  - (2) "Conduct" means to back, promote, organize, manage, carry on, sponsor, or prepare for the operation of sports gaming in this state and includes participating in the conduct at issue.
  - (3) “License” or “plenary license” means the complete and approved document issued by the commission that indicates that an applicant has been chosen for licensure and has met all requirements set forth in Chapter 3775. of the Revised Code and the rules adopted thereunder.
  - (4) "Licensee" means any person who holds a valid plenary or provisional license.
  - (5) "Person" has the same meaning as in section 3772.01 of the Revised Code.
  - (6) “Provisional license” means a complete and approved document issued by the Commission that indicates an applicant has been chosen for temporary licensure in accordance with Section 4 of Amended House Bill 29 of the 134<sup>th</sup> General Assembly.
  - (7) “Sports gaming employee” means any individual required to obtain a sports gaming occupational license under Chapter 3775. of the Revised Code and the rules adopted thereunder.
  - (8) “Sports gaming equipment” has the same meaning in division (P) of section 3775.01 of the Revised Code, but does not include any device, software, or component that does not affect the operational integrity of sports gaming, as determined by the executive director.
  - (9) “Suspicious betting activity or pattern” means unusual betting activity or pattern that cannot be explained and is indicative of any conduct that corrupts the outcome of an event or any other prohibited activity.

\*\*\*Please note that the Commission will continue to update this rule as more definitions become necessary. This rule will be provided with all rule batches submitted for stakeholder review and will be updated accordingly.

**Rule 3772:1-1-09 | Sports gaming involuntary exclusion list.**

- (A) The "sports gaming involuntary exclusion list" consists of the names and other identifying or descriptive information of those individuals who meet the criteria under Chapter 3772. of the Revised Code and this rule and have been placed on the list in accordance with sections 3772.031, 3772.04, or 3775.13 of the Revised Code. This rule does not govern the Ohio VEP, as described in chapter 3772-12 of the Administrative Code, or any exclusion required by division (F) of section 3775.13 of the Revised Code.
- (B) An individual on the sports gaming involuntary exclusion list is prohibited from entering a sports gaming facility or the grounds of a sports gaming facility or from participating in the play or operation of sports gaming in this state.
- (C) Each sports gaming proprietor must employ commercially reasonable methods to exclude any individual on the sports gaming involuntary exclusion list from entering their Ohio sports gaming facility and prevent such individual from engaging in sports gaming conducted by the sports gaming proprietor in Ohio.
- (D) Each sports gaming proprietor must notify the commission, on a monthly basis, if an individual on the involuntary exclusion list has entered or attempted to enter the sports gaming facility or has engaged in or has attempted to engage in sports gaming conducted by the sports gaming proprietor in Ohio.
- (E) This rule does not preclude a sports gaming proprietor from ejecting any individual from its sports gaming facility or from otherwise prohibiting an individual from engaging in sports gaming offered by the sports gaming proprietor for any lawful reason. The sports gaming proprietor may request that the commission place an ejected individual on the sports gaming involuntary exclusion list, but the decision to initiate an involuntary exclusion proceeding or to place an individual on the sports gaming involuntary exclusion list rests solely with the commission.

**Rule 3772:1-4-04 | Type C sports gaming proprietor licensure.**

- (A) An applicant for an initial or renewal type C sports gaming proprietor license must complete and submit the appropriate form(s) required by the commission and pay a nonrefundable application fee of fifteen thousand dollars and all fees necessary to cover the cost of any required criminal-records checks.
- (B) An applicant for an initial or renewal type C sports gaming proprietor license must establish, by clear and convincing evidence, the applicant's suitability for licensure.
- (C) In determining whether to grant, maintain, or renew a type C sports gaming proprietor license, the commission will evaluate and consider the following factors, in addition to those set forth in division (C) of 3775.03 and divisions (B) and (C) of section 3775.041 of the Revised Code:
  - (1) Whether the type C sports gaming proprietor and any person that controls it possesses good character, honesty, and integrity;
  - (2) Whether the type C sports gaming proprietor and any person that controls it possesses financial stability, integrity, and responsibility;
  - (3) The extent to which the type C sports gaming proprietor and any person that controls it have cooperated with the commission in connection with the background investigation;
  - (4) The extent to which the type C sports gaming proprietor and any person that controls it have provided accurate and complete information as required by the commission;
  - (5) The suitability of any material person, as determined by the executive director;
  - (6) The reputation and business experience of the type C sports gaming proprietor;
  - (7) Whether the type C sports gaming proprietor has entered into agreements to offer sports gaming at type C sports gaming host facilities, subject to regulatory approvals;
  - (8) Whether the type C sports gaming proprietor has been issued a comparable sports gaming license in another gaming jurisdiction with similar licensing requirements, as determined by the commission;
  - (9) The prospective total revenue to be collected by the state for the conducting of sports gaming;
  - (10) The prospective total taxable income to be earned by the type C sports gaming proprietor's employees in the state;
  - (11) The extent to which the type C sports gaming proprietor contributes to the economic development in the state; and



- (12) The extent to which the type C sports gaming proprietor has complied with the requirements of Chapters 3770. and 3772. and 3775. of the Revised Code and the rules adopted thereunder.
- (D) A type C sports gaming proprietor license expires five years after the date of licensure.
- (E) A type C sports gaming proprietor may request renewal of the license by completing and submitting the appropriate form(s) required by the commission no less than one hundred eighty days before the expiration of the license.
- (F) Upon approval by the commission, at a meeting held under section 3772.02 of the Revised Code, an applicant for an initial or renewal type C sports gaming proprietor license must:
- (1) Pay the nonrefundable license fees as outlined in division (E)(3) of section 3775.04 of the Revised Code;
  - (2) Post and maintain a surety bond of an amount necessary to cover all future license fees owed, payable to the state, which must be issued by a surety that is licensed to do business in this state, as required by division (E) of section 3775.04 of the Revised Code; and
  - (3) Enter into a valid contract with the state lottery commission to operate lottery sports gaming pursuant to Chapters 3770. and 3775. of the Revised Code. Failure to enter into or to maintain a contract with the state lottery commission may be cause for administrative action against the licensee.
- (G) In the event the application fee paid by a type C sports gaming proprietor is insufficient to cover the actual costs of investigating the suitability of the applicant or the persons that control it, the commission may assess additional fees to cover the costs of the investigation that exceed the application fee paid under this chapter.
- (H) Unless otherwise approved by the executive director, all fees must be submitted to the commission in the form of an electronic funds transfer payable to the treasurer of the state of Ohio.
- (I) If the executive director determines at any time that a type C sports gaming proprietor licensee has not actively offered sports gaming to patrons under the license for a continued period of one year or more, administrative action to revoke the applicable license will be taken against the licensee. Notice of the proposed action and an opportunity for hearing will be provided in the manner prescribed under Chapter 119. of the Revised Code and Chapter 3772-21 of the Administrative Code. Such administrative action will not affect any other sports gaming proprietor licenses that are held by the licensee.
- (J) The applicant should clearly identify those portions of the application that it deems to be confidential, proprietary commercial information, trade secrets, or otherwise not subject to public disclosure. Information provided as part of the application and licensing process is open

to public inspection to the extent provided by the Ohio Public Records Act and section 3775.14 of the Revised Code.

**Rule 3772:1-4-07 | Type C sports gaming host licensure.**

- (A) An applicant for an initial or renewal type C sports gaming host license must apply for licensure via the state of Ohio eLicense website at [www.elicense.ohio.gov](http://www.elicense.ohio.gov), comply with all instructions, and pay a non-refundable application fee of one thousand dollars. This application fee will be credited as payment of the type C gaming host's license fee, as prescribed by division (C) of section 3775.06 of the Revised Code.
- (B) In determining whether to grant, maintain, or renew a type C sports gaming host license, the commission will evaluate and consider the following factors:
  - (1) Whether the applicant has been issued a valid D-1, D-2, or D-5 liquor permit under Chapter 4303. of the Revised Code;
  - (2) Whether the applicant has been issued a valid lottery sales agent license under Chapter 3770. of the Revised Code;
  - (3) Whether the applicant has or will enter into an agreement with a type C sports gaming proprietor to offer sports gaming at its facility, subject to regulatory approval;
  - (4) Whether the state lottery commission recommends the applicant be issued the license; and
  - (5) Whether the applicant has complied with the requirements of Chapters 3770. and 3772. and 3775. of the Revised Code and the rules adopted thereunder.
- (C) A type C sports gaming host may offer sports gaming through a different type C sports gaming proprietor than the one identified in the applicant's initial license application during the period of the license, subject to the terms of any governing agreement with the type C sports gaming proprietor.
- (D) An applicant for a type C sports gaming host license is not required to undergo a criminal background check or suitability investigation to be issued the license.
- (E) The commission, at a meeting held under section 3772.02 of the Revised Code, will determine whether the applicant is eligible for the license and whether the applicant has complied with the requirements of Chapters 3772. and 3775. of the Revised Code and the rules adopted thereunder.
- (F) A type C sports gaming host license expires three years after the date of licensure.
- (G) A type C gaming host licensee may request renewal of the license by completing and submitting the appropriate form(s) required by the commission no less than one hundred twenty days before the expiration of the license.
- (H) The applicant should clearly identify those portions of the application that it deems to be confidential, proprietary commercial information, trade secrets, or otherwise not subject to

public disclosure. Information provided as part of the application and licensing process is open to public inspection to the extent provided by the Ohio Public Records Act and section 3775.14 of the Revised Code.

**Rule 3772:1-12-01 | Sports gaming voluntary exclusion program.**

The sports gaming voluntary exclusion program, created pursuant to section 3775.02 of the Revised Code, is to be operated in the manner described in chapter 3772-12 of the Administrative Code.

**Rule 3772-12-01 | Definitions, purpose, and scope of the Ohio voluntary exclusion program.**

(A) As used agency 3772 of the Administrative Code, the following words have the following meanings, unless the context clearly indicates otherwise:

- (1) “Excluded entity” means all casino facilities, as defined in section 3772.01 of the Revised Code; all video lottery terminal facilities, as authorized in section 3770.21 of the Revised Code; and all sports gaming conducted by sports gaming proprietors, as defined in section 3775.01 of the Revised Code.
- (2) “Excluded facilities” means all casino facilities, as defined in section 3772.01 of the Revised Code; all video lottery terminal facilities, as authorized in section 3770.21 of the Revised Code; and all sports gaming facilities, as defined in section 3775.01 of the Revised Code.
- (3) “Ohio voluntary exclusion program” or “Ohio VEP” means the combined voluntary exclusion program, consisting of the casino control commission voluntary exclusion program, created pursuant to section 3772.03 of the Revised Code; the lottery commission voluntary exclusion program, created pursuant to section 3770.03 of the Revised Code; and the sports gaming voluntary exclusion program, created pursuant to section 3775.02 of the Revised Code.
- (4) “Ohio VEP application” means a prescribed contract that an individual must complete and agree to in order to participate in the Ohio VEP.

(B) The purpose of this chapter is to help curtail disordered and problem gambling in the state of Ohio by creating the Ohio voluntary exclusion program.

(C) Participants in the Ohio VEP agree to exclude themselves from both excluded facilities and excluded entities, as further enumerated in this chapter and the associated Ohio VEP application.

(D) Except as described in rule [3772-12-07](#) of the Administrative Code, no person will be able to voluntarily exclude themselves from only certain aspects or portions of the Ohio VEP.

(E) Nothing in this chapter will prohibit participants in the Ohio VEP from entering an excluded facility for the purpose of carrying out the duties of their employment. Any such individual must submit notification of their employment in accordance with the procedure described on a prescribed form.

(F) This chapter is to be read in tandem with Chapter 3770:2-8 of the Administrative Code.

**Rule 3772-12-02 | Ohio VEP application.**

- (A) Ohio VEP applications will be available for completion at all Ohio casino facilities, video lottery terminal facilities, and the online Ohio VEP portal. If an individual is unable to appear in person at any of these facilities to complete an application and unable to utilize the online portal, the individual may contact staff from the lottery commission or the casino control commission during regular business hours to make alternative arrangements to complete the application.
- (B) No application will be accepted if it was not completed in the presence of either commission's staff or through the online Ohio VEP portal.
- (C) As part of the Ohio VEP application, the individual must select the duration of their participation in the Ohio VEP. An individual may select any of the following time periods as a length of exclusion:
  - (1) A minimum of one year;
  - (2) A minimum of five years; or
  - (3) Lifetime, subject to paragraph (D) of rule [3772-12-05](#) of the Administrative Code.
- (D) If an individual completing the Ohio VEP application, in the presence of a casino control commission or lottery commission agent, appears to be doing so involuntarily or while impaired, their application will be rejected.
- (E) After an individual's Ohio VEP application has been processed, delivery of written confirmation of their participation in the Ohio VEP will be attempted. Failure of delivery of the notification does not negate the individual's participation in the Ohio VEP.



**Rule 3772-12-03 | Responsibilities of voluntarily excluded individuals.**

- (A) Participants in the Ohio VEP agree to abide by all terms listed in the Ohio VEP application, including refraining from entering an excluded facility or engaging in or attempting to engage in gaming offered by an excluded entity.
- (B) Participants in the Ohio VEP who violate the terms of the Ohio VEP at a casino or sports gaming facility, or on an online sports pool, agree to surrender to the casino control commission any money or thing of value the individual has converted or attempted to convert into a wagering instrument, and any prize won, claimed, or attempted to be claimed for deposit in the state problem gambling and addictions fund.
- (C) Participants in the Ohio VEP must agree to forfeit all points, complimentaries, or promotional credits earned by the individual on or before the date the individual completed their Ohio VEP application. However, if at the time the individual completed the Ohio VEP application, the individual is owed a cash amount from an excluded entity or facility, the individual still has the right to receive that amount from the entity or facility, even after placement on the voluntary exclusion program. To the extent that promotional credits, complimentaries, or points described above may be redeemed for cash under the entity's or facility's marketing program, the individual is entitled to receive that amount.
- (D) A voluntarily excluded individual who violates the terms of the Ohio VEP by entering any of the excluded facilities may face charges for criminal trespass.
- (E) The individual must remain a participant in the Ohio VEP for at least the minimum duration of their selected length of exclusion before they may request to be removed, subject to paragraph (D) rule [3772-12-05](#) of the Administrative Code.
- (F) An Ohio VEP participant may always request to increase their length of exclusion.

**Rule 3772-12-04 | Responsibilities of excluded entities or facilities.**

- (A) This rule only applies to excluded entities or facilities in their capacity as either a casino or sports gaming facility or in their capacity as an online sports pool.
- (B) Each excluded entity or facility must maintain a system for indicating whether an individual is in the Ohio VEP and must have approved procedures to update the system with changes in the enrollment status of those individuals at least once every seven days.
- (C) An excluded entity or facility must immediately notify commission staff if an Ohio VEP participant is found on the premises of an excluded facility or otherwise engaging in gaming or attempting to engage in gaming offered by the excluded entity. Within seventy-two hours of the incident, the excluded entity or facility must provide to the commission, in writing, the following:
  - (1) The individual's name;
  - (2) The individual's date of birth;
  - (3) The circumstances of the individual's violation or attempted violation of the Ohio VEP;  
and
  - (4) The individual's gaming activity, if any.
- (D) Each excluded entity or facility must comply with the compulsive and problem gambling plan established under rule [3772-12-06](#) of the Administrative Code.
- (E) Nothing in this chapter prohibits an excluded entity or facility, or its employees and agents, from seeking payment of a debt from an Ohio VEP participant, if the debt was accrued prior to their enrollment in the Ohio VEP.
- (F) A casino facility must apply the requirements of this rule to individuals participating in a voluntary exclusion program pursuant to rule 3772-12-07 of the Administrative Code.

**Rule 3772-12-05 | Removal from the Ohio voluntary exclusion program.**

- (A) A participant in the Ohio VEP is not automatically removed from the program at the end of the applicable exclusion period.
- (B) Upon reaching the selected minimum length of voluntary exclusion, an individual may request removal from the Ohio VEP.
- (C) An individual may be removed from the one-year or five-year exclusion by requesting and completing an unaltered application for removal.
- (D) An individual may be removed from the lifetime exclusion if the individual has:
  - (1) Remained in the Ohio VEP for at least five years;
  - (2) Completed the Ohio VEP education program on problem gambling awareness; and
  - (3) Requested and completed an unaltered application for removal.

**Rule 3772-12-06 | Disordered and problem gambling plan.**

(A) Each excluded entity and facility, who is a casino or sports gaming facility or an online sports pool, must provide to the casino control commission a compulsive and problem gambling plan for approval. Each plan must, at minimum, include the following:

- (1) The goals of the plan and procedures and timetables to implement the plan;
- (2) The identification of the position responsible for the implementation and maintenance of the plan;
- (3) Policies and procedures, including the following:
  - (a) Procedures for compliance with the Ohio VEP including, at a minimum:
    - (i) Procedures preventing an individual in the Ohio VEP from entering an excluded facility or engaging in or attempting to engage in gaming offered by an excluded entity;
    - (ii) Procedures identifying and removing individuals in the Ohio VEP from an excluded facility;
    - (iii) Procedures for preventing dissemination of any advertisement, promotion, or other direct marketing mailing fifteen days after the individual has been placed in the Ohio VEP;
    - (iv) Procedures for preventing an Ohio VEP participant from having access to credit or from receiving complimentary services, check-cashing services, junket participation, and other benefits;
    - (v) Procedures for ensuring the confidentiality of the identity and the information of the Ohio VEP participants; and
    - (vi) Any other procedure required by the executive director.
  - (b) The duties and responsibilities of the employees designated to implement or participate in the plan;
  - (c) The responsibility of patrons with respect to safer gambling practices;
  - (d) Procedures to identify patrons and employees with suspected or known disordered and problem gambling behavior, including procedures specific to loyalty and other rewards and marketing programs;
  - (e) Procedures for providing information to individuals regarding the Ohio VEP and community, public and private treatment services, gamblers anonymous programs, and

similar treatment or addiction therapy programs designed to prevent, treat, or monitor individuals with a gambling problem or gambling disorder and to counsel family members, including for providing the information upon the request of a patron or employee;

- (f) The provision of written material to educate patrons and employees about disordered and problem gambling and to inform them about the Ohio VEP and treatment services available to individuals with a gambling problem or gambling disorder and their families. The excluded entity or facility must provide commission examples of the materials to be used, and a description of how the material will be disseminated;
  - (g) Advertising and other marketing and outreach to educate the general public about disordered and problem gambling;
  - (h) An employee training program, including training materials to be utilized and a plan for periodic reinforcement training and a certification process established by the excluded entity or facility to verify that each employee has completed the training required by the plan;
  - (i) Procedures to prevent underage gambling;
  - (j) Procedures for excluded facilities to prevent patrons impaired by drugs or alcohol, or both, from gambling; and
  - (k) The plan for posting signs within an excluded facility, containing information on gambling treatment and on the Ohio VEP, including examples of the language and graphics to be used on the signs;
- (4) A list of public and private treatment services, gamblers anonymous programs, and similar treatment or addiction therapy programs designed to prevent, treat, or monitor individuals with a gambling problem or gambling disorder and to counsel family members; and
- (5) Any other information, documents, and policies and procedures that the casino control commission requires.
- (B) Each excluded entity or facility must submit quarterly updates and an annual report to the casino control commission of its adherence to the plans and goals submitted under this rule, including any information that the excluded entity or facility has received related to bankruptcy, divorce, crime, and attempted or completed suicide related to gambling offered by an excluded entity or at an excluded facility.
- (C) A casino facility must apply the requirements of this rule to individuals participating in a voluntary exclusion program pursuant to rule 3772-12-07 of the Administrative Code.

**Rule 3772-12-07 | Prior voluntary exclusions.**

- (A) This rule applies only to those individuals who submitted their application to join the casino control commission's voluntary exclusion program prior to March 1, 2019, and those individuals who submitted their application to join the Ohio VEP prior to the effective date of this rule and have not yet sought removal from the applicable program.
- (B) The individuals who submitted their application to join the casino control commission's voluntary exclusion program prior to March 1, 2019, may continue their participation and voluntary exclusion from only the four casino facilities in the state of Ohio.
- (C) The individuals who submitted their application to join the Ohio VEP prior to the effective date of this rule may continue their participation and voluntary exclusion from only the four casino facilities and seven video lottery terminal facilities in the state of Ohio.
- (D) The application for voluntary exclusion signed by the individual at the time of enrollment governs their participation.
- (E) These individuals may submit an Ohio VEP application, pursuant to rule 3772-12-02 of the Administrative Code. The individual's selected length of exclusion on this application will supersede their previously selected length of exclusion and will expand to all excluded entities and facilities.
- (F) Notwithstanding any rules to the contrary, or the terms of the applicable application to join the voluntary exclusion program, those individuals who selected the lifetime exclusion are permitted to seek removal from the voluntary exclusion program if they comply with the requirements set forth in paragraph (D) of rule 3772-12-05 of the Administrative Code.

**From:** [Samuel.Porter@icemiller.com](mailto:Samuel.Porter@icemiller.com)  
**To:** [Rule Comments](#)  
**Subject:** Comments from Penn National Gaming - Batch 3  
**Date:** Friday, February 11, 2022 6:59:37 AM  
**Attachments:** [image001.png](#)  
[Penn Commentary\\_OCCC Rules \(Batch 3, Round 1\)-c.pdf](#)

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Good Morning,

On behalf of Penn National Gaming please find the enclosed comments for Batch 3 administrative rules related to sports wagering.

Please reach out with any questions.

Thanks,  
Sam



**Samuel H. Porter, III** | Partner | Arena District | 250 West Street | Columbus, OH 43215  
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Ohio Casino Control Commission - 1st Round Sports Gaming Rules (Batch 3)

Area	Rule Reference	Existing Rule Language	Proposed Language	Reason for Change
Voluntary Exclusion Program	Rule 3772-12-03 (C). Responsibilities of voluntarily excluded individuals	(C) Participants in the Ohio VEP must agree to forfeit all points, complimentary, or promotional credits earned by the individual on or before the date the individual completed their Ohio VEP application. However, if at the time the individual completed the Ohio VEP application, the individual is owed a cash amount from an excluded entity or facility, the individual still has the right to receive that amount from the entity or facility, even after placement on the voluntary exclusion program. To the extent that promotional credits, complimentary, or points described above may be redeemed for cash under the entity's or facility's marketing program, the individual is entitled to receive that amount.	(C) Participants in the Ohio VEP must agree to forfeit all points, complimentary, or promotional credits earned by the individual on or before the date the individual completed their Ohio VEP application. However, if at the time the individual completed the Ohio VEP application, the individual is owed a cash amount from an excluded entity or facility, the individual still has the right to receive that amount from the entity or facility, even after placement on the voluntary exclusion program. To the extent that promotional credits, complimentary, or points described above <u>were in the process of being redeemed for cash under the entity's or facility's marketing program on or before the date the individual completed their Ohio VEP application</u> , the individual is entitled to receive that amount <u>if the redemption process is ultimately satisfied</u> .	Penn recommends amending this rule to clarify that points, complimentary, or promotional credits that can be redeemed for cash are only eligible for reimbursement if the redemption process was started prior to the individual completing their Ohio VEP application. The industry standard for online sports wagering marketing programs is that promotional funds for sports wagering cannot be withdrawn as cash until they are "played through" at least once on the sportsbook (i.e., a qualifying wager on a sports event). While all promotional credits for sports wagering may ultimately be redeemed for cash, until those promotional credits have been successfully played through, participants are not entitled to their cash equivalent. Penn's proposed amendments provide clarification as to when self-excluded players are eligible to receive cash funds for sports wagering promotional credits.  For further context, under the proposed amendments, if an individual has a pending sports wager funded with promotional credits at the time of completing their Ohio VEP application, the individual is entitled to receive this wager amount if it ultimately settles as a qualifying wager (i.e., a win or push that meets odds restrictions) - satisfying the redemption process. An individual would not be entitled to points, complimentary, or promotional credits or balances that are eligible for cash redemption that have not been redeemed, or were in the process of being redeemed, prior to the completion of the Ohio VEP Application.
Voluntary Exclusion Program List Access	Rule 3772-12-01 (A) (1) and (2). Definitions, purpose, and scope of the Ohio voluntary exclusion program.	(A) As used agency 3772 of the Administrative Code, the following words have the following meanings, unless the context clearly indicates otherwise:  (1) "Excluded entity" means all casino facilities, as defined in section 3772.01 of the Revised Code; all video lottery terminal facilities, as authorized in section 3770.21 of the Revised Code; and all sports gaming conducted by sports gaming proprietors, as defined in section 3775.01 of the Revised Code.  (2) "Excluded facilities" means all casino facilities, as defined in section 3772.01 of the Revised Code; all video lottery terminal facilities, as authorized in section 3770.21 of the Revised Code; and all sports gaming facilities, as defined in section 3775.01 of the Revised Code.	(A) As used agency 3772 of the Administrative Code, the following words have the following meanings, unless the context clearly indicates otherwise:  (1) "Excluded entity" means all casino facilities, as defined in section 3772.01 of the Revised Code; all video lottery terminal facilities, as authorized in section 3770.21 of the Revised Code; <u>and all sports gaming conducted by sports gaming proprietors, and all management services providers, and mobile management services providers offering sports gaming on behalf of a sports gaming proprietor</u> , as defined in section 3775.01 of the Revised Code.  (2) "Excluded facilities" means all casino facilities, as defined in section 3772.01 of the Revised Code; all video lottery terminal facilities, as authorized in section 3770.21 of the Revised Code; and all sports gaming facilities, as defined in section 3775.01 of the Revised Code.	As the current definition of "sports gaming proprietor" in HB 29 does not include management services providers ("MSPs") and mobile management services providers ("MMSPs"), Penn recommends amending this rule to include MSPs and MMSPs in the definition of "excluded entity." Granting direct access to MSPs and MMSPs will improve the efficiency and minimize manual errors in meeting the requirements and obligations set forth under the sports gaming involuntary exclusion list and the Voluntary Exclusion Program. Where MSPs and MMSPs must obtain the information from their contracted type A and/or type B sports gaming proprietor, the likelihood of manual error in implementing the appropriate safeguards in a timely manner increases. In addition, the practice of MSPs and/or MMSPs, or equivalent license level, directly meeting the obligations around voluntary and involuntary exclusion programs aligns with other jurisdictions, such as Arizona, Illinois, Iowa, Louisiana, Pennsylvania, Tennessee, Virginia and West Virginia.
Sports gaming involuntary exclusion list	Rule 3772-1-1-09 (A) -(E). Sports gaming involuntary exclusion list.	(A) The "sports gaming involuntary exclusion list" consists of the names and other identifying or descriptive information of those individuals who meet the criteria under Chapter 3772. of the Revised Code and this rule and have been placed on the list in accordance with sections 3772.031, 3772.04, or 3775.13 of the Revised Code. This rule does not govern the Ohio VEP, as described in chapter 3772-12 of the Administrative Code, or any exclusion required by division (F) of section 3775.13 of the Revised Code.  (B) An individual on the sports gaming involuntary exclusion list is prohibited from entering a sports gaming facility or the grounds of a sports gaming facility or from participating in the play or operation of sports gaming in this state.  (C) Each sports gaming proprietor must employ commercially reasonable methods to exclude any individual on the sports gaming involuntary exclusion list from entering their Ohio sports gaming facility and prevent such individual from engaging in sports gaming conducted by the sports gaming proprietor in Ohio.  (D) Each sports gaming proprietor must notify the commission, on a monthly basis, if an individual on the involuntary exclusion list has entered or attempted to enter the sports gaming facility or has engaged in or has attempted to engage in sports gaming conducted by the sports gaming proprietor in Ohio.  (E) This rule does not preclude a sports gaming proprietor from ejecting any individual from its sports gaming facility or from otherwise prohibiting an individual from engaging in sports gaming offered by the sports gaming proprietor for any lawful reason. The sports gaming proprietor may request that the commission place an ejected individual on the sports gaming involuntary exclusion list, but the decision to initiate an involuntary exclusion proceeding or to place an individual on the sports gaming involuntary exclusion list rests solely with the commission.	(A) The "sports gaming involuntary exclusion list" consists of the names and other identifying or descriptive information of those individuals who meet the criteria under Chapter 3772. of the Revised Code and this rule and have been placed on the list in accordance with sections 3772.031, 3772.04, or 3775.13 of the Revised Code. This rule does not govern the Ohio VEP, as described in chapter 3772-12 of the Administrative Code, or any exclusion required by division (F) of section 3775.13 of the Revised Code.  (B) An individual on the sports gaming involuntary exclusion list is prohibited from entering a sports gaming facility or the grounds of a sports gaming facility or from participating in the play or operation of sports gaming in this state.  (C) Each sports gaming proprietor, <u>or management services providers and mobile management services providers offering sports gaming on behalf of a sports gaming proprietor</u> , must employ commercially reasonable methods to exclude any individual on the sports gaming involuntary exclusion list from entering their Ohio sports gaming facility and prevent such individual from engaging in sports gaming conducted by the sports gaming proprietor, <u>or management services providers and mobile management services providers offering sports gaming on behalf of a sports gaming proprietor</u> , in Ohio.  (D) Each sports gaming proprietor, <u>or management services providers and mobile management services providers offering sports gaming on behalf of a sports gaming proprietor</u> , must notify the commission, on a monthly basis, if an individual on the involuntary exclusion list has entered or attempted to enter the sports gaming facility or has engaged in or has attempted to engage in sports gaming conducted by the sports gaming proprietor, <u>or by management services providers and mobile management services providers offering sports gaming on behalf of a sports gaming proprietor</u> , in Ohio.  (E) This rule does not preclude a sports gaming proprietor from ejecting any individual from its sports gaming facility or from otherwise prohibiting an individual from engaging in sports gaming offered by the sports gaming proprietor, <u>or by management services providers and mobile management services providers offering sports gaming on behalf of a sports gaming proprietor</u> , for any lawful reason. The sports gaming proprietor, <u>or management services providers and mobile management services providers offering sports gaming on behalf of a sports gaming proprietor</u> may request that the commission place an ejected individual on the sports gaming involuntary exclusion list, but the decision to initiate an involuntary exclusion proceeding or to place an individual on the sports gaming involuntary exclusion list rests solely with the commission.	Similar to the above comment on Rule 3772-12-01(A), Penn recommends ensuring MSPs and MMSPs have the authority to carry out the requirements of subsection (C) through (E). In situations where MSPs and/or MMSPs are operating on behalf of type B and/or type A sports gaming proprietor, they will be the entity employing methods to monitor and exclude individuals on the sports gaming involuntary exclusion list. In addition, allowing MSPs and MMSPs the authority to carry out required monthly reporting, and requests to the commission to add individuals on the sports gaming involuntary exclusion list, will improve the efficiency and minimize manual errors.



**From:** [Andrew Winchell](#)  
**To:** [Rule Comments](#)  
**Cc:** [Cory Fox](#)  
**Subject:** FanDuel Comments Ohio Casino Control Commission Initial Sports Gaming Rules - Batch 3 - Round 1  
**Date:** Friday, February 11, 2022 9:52:13 AM  
**Attachments:** [image001.png](#)  
[FanDuel Comments on Batch 3-Round 1 Proposed Ohio Sports Wagering Rules 2.11.22.pdf](#)

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Dear Executive Director Schuler,

Thank you for the opportunity to provide comments for the first round of review on the Ohio Casino Control Commission's Initial Sports Gaming Rules – Batch 3. Attached please find our comments and please do not hesitate to contact me if you have any questions or need any additional information from us regarding our comments.

Sincerely,

**Andrew J. Winchell**

Director, Government Affairs

845.325.6235 | [andrew.winchell@fanduel.com](mailto:andrew.winchell@fanduel.com)



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Cory Fox  
[cory.fox@fanduel.com](mailto:cory.fox@fanduel.com)

February 11, 2022

*Via Email to rulecomments@casinocontrol.ohio.gov*

Matt Schuler, Executive Director  
Ohio Casino Control Commission  
100 East Broad Street, 20<sup>th</sup> Floor  
Columbus, OH 43215

**Re: FanDuel comments on proposed “2021 Initial Sports Gaming Rules, Batch 3 – Round 1 – Involuntary Exclusion, Type C Entity Licensing, and Voluntary Exclusion Program and Responsible Gambling Plan.”**

Dear Executive Director Schuler:

I write to provide comments on behalf of FanDuel Group, Inc. (“FanDuel”) regarding the Ohio Casino Control Commission’s (“Commission”) proposed “2021 Initial Sports Gaming Rules, Batch 3 – Round 1 – Involuntary Exclusion, Type C Entity Licensing, and Voluntary Exclusion Program and Responsible Gambling Plan.” (“Proposed Rules”). Based on our extensive experience as an operator in the online casino gaming, sports betting and fantasy sports industries and collaborator with regulators of sports betting in many states in the development of their regulations, we offer constructive feedback on ways in which the Proposed Rules can be improved for effectiveness and consistency with other state regulations.

Following the Supreme Court’s decision to strike down the Professional and Amateur Sports Protection Act (PASPA) in May of 2018, FanDuel has now become the leading sports wagering operator, and the largest online real-money gaming operator, in the United States. FanDuel currently operates twenty-five (25) brick and mortar sportsbooks in fourteen (14) states and online sports wagering in fourteen (14) states. We appreciate the opportunity to share our perspective on sports betting regulation with you and have arranged our comments in three parts. Part I is focused on issues of concern in the Proposed Rules that may significantly impact the ability of sports wagering operators to successfully operate in Ohio. Part II is focused requests for clarification.

All changes will be shown as follows: proposed additional text will be bolded and underlined and all text to be deleted will be bolded, bracketed, and struck through.

**Part I – Operational Concerns.**

- ***Issue 1 – Notification of Commission staff if a voluntary excluded individual is found on the premises of an excluded facility or engaging or attempting to engage in gaming.***

Section 3772-12-04(C) of the Proposed Rules requires that Commission staff be notified “immediately” if an individual who is in the voluntary exclusion program is “found on the premises of an excluded facility or otherwise engaging in gaming or attempting to engage in gaming offered by the excluded entity.”

While we agree that the individual must be immediately excluded from a sports wagering platform, the requirement to ‘immediately’ notify the commission is a burden on licensees and may prevent licensees from being able to provide the commission with a complete report on the incident since there will not be any time available for an initial investigation. We suggest adopting a “prompt” notification standard for licensees. It is important to note that while this requirement to “immediately” notify the division is imposed as it relates to commission excluded and self-excluded individuals at gaming establishments, commission staff is physically present at those establishments which eases the notification burden.

Additionally, it is unclear as to what “attempting to engage in gaming” means in the context of online sports pools. We suggest that the Commission clarify that a failed log on attempt by a VEP participant to their account does not trigger this reporting requirement, as the customer may be trying to withdraw their remaining funds and/or closeout their account.

To address these concerns, we suggest the following edits:

Section 3772-12-04(C):

“(C) An excluded entity or facility must **[immediately] promptly** notify commission staff if an Ohio VEP participant is found on the premises of an excluded facility or otherwise engaging in gaming or attempting to engage in gaming offered by the excluded entity. **For purposes of online sports pools, “attempting to engage in gaming” shall not include failed attempts by an Ohio VEP participant to log on to their account which are successfully prevented by the sports gaming proprietor.** Within seventy-two hours of the incident, the excluded entity or facility must provide to the commission, in writing, the following:

- (1) The individual's name;
- (2) The individual's date of birth;
- (3) The circumstances of the individual’s violation or attempted violation of the Ohio VEP; and
- (4) The individual's gaming activity, if any.”

- ***Issue 2 – Requirement to submit quarterly updates and annual report about certain activities.***

Section 3772-12-06(B) of the Proposed Rules requires that sports gaming proprietors provide quarterly updates and an annual report on its compulsive and problem gambling plan. While we agree that the Commission should receive an annual report on adherence to the plan, we think that quarterly updates are unnecessary and burdensome.

Additionally, the information requested as part of the updates and report on the compulsive and problem gambling plan includes a requirement that each excluded entity or facility must provide “any information that the excluded entity or facility has received related to bankruptcy, divorce, crime, and attempted or completed suicide related to gambling offered by an excluded entity or at an excluded facility.” We are aware of no other state which requires this type of information for online sports wagering, and, with the exception of any crimes which take place on the premises of an excluded facility, it would be entirely subjective to claim that any of the other activities are “related” to gambling offered by an excluded entity or at an excluded facility. As such, we suggest removal of this requirement.

To address these concerns, we suggest the following edits:

Section 3772-12-06(B):

“(B) Each excluded entity or facility must submit ~~[quarterly updates and]~~ an annual report to the casino control commission of its adherence to the plans and goals submitted under this rule[; ~~including any information that the excluded entity or facility has received related to bankruptcy, divorce, crime, and attempted or completed suicide related to gambling offered by an excluded entity or at an excluded facility.~~”

Part II - Requests for Clarification.

- *Issue 1 – Ensuring use of commercially reasonable standard.*

Section 3772:1-1-09(C) of the Proposed Rules requires sports gaming proprietors to employ commercially reasonable methods to exclude individuals on the involuntary exclusion list from entering their gaming facility and prevent them from engaging in sports gaming conducted by the sports gaming proprietor. However, as drafted, it is unclear if the “commercially reasonable methods” only applies to the excluding of individuals on the involuntary exclusion list from entering the sports gaming facility and not the prevention of those individuals from engaging in sports gaming.

Section 3772:1-2-09(C):

“(C) Each sports gaming proprietor must employ commercially reasonable methods to: 1) exclude any individual on the sports gaming involuntary exclusion list from entering their Ohio sports gaming facility; and 2) prevent such individual from engaging in sports gaming conducted by the sports gaming proprietor in Ohio.”

- ***Issue 2 – Clarification on handling of pending wagers at the time an individual completes an application for the Ohio VEP.***

Section 3772-12-03(C) of the proposed rules provides that “if at the time the individual completed the Ohio VEP application, the individual is owed a cash amount from an excluded entity or facility, the individual still has the right to receive that amount from the entity or facility, even after placement on the voluntary exclusion program.” We agree with this requirement, however, we would appreciate the Commission clarifying that when an individual has pending wagers at the time of completing their application for the Ohio VEP, those wagers are settled in the normal course of business. This is important for two reasons, first is that confiscation of pending sports wagers disincentivizes people with gambling problems from voluntarily placing themselves on the exclusion list when they feel they should do so. Second, if the wagers are deemed to be voided with the original stakes returned to the patron, this would create a potential loophole where a patron may seek to void one or more wagers they have placed, which appear likely to lose, by self-excluding. To address this concern, we suggest the following edits:

Section 3772-12-03(C):

“(C) Participants in the Ohio VEP must agree to forfeit all points, complimentaries, or promotional credits earned by the individual on or before the date the individual completed their Ohio VEP application. However, if at the time the individual completed the Ohio VEP application, the individual is owed a cash amount from an excluded entity or facility, the individual still has the right to receive that amount from the entity or facility, even after placement on the voluntary exclusion program. **If at the time the individual completed the Ohio VEP application, the individual has any pending wagers with an excluded entity or facility, those wagers shall be settled in the normal course of business and individual still has the right to receive any winnings from such wagers.** To the extent that promotional credits, complimentaries, or points described above may be redeemed for cash under the entity’s or facility’s marketing program, the individual is entitled to receive that amount.”

- ***Issue 3 – Clarification that excluded entities may restrict or block access for individuals on any self-exclusion list.***

Section 3772-12-07 of the Proposed Rules provides that certain VEP participants, based on the day they submitted their application, may limit their VEP participation to only the four casino facilities or the four casino facilities and the seven video lottery facilities. While we understand the Commission’s rationale for this section, we would request clarification that sports gaming proprietors have the ability to choose to restrict or block access to individuals in the VEP regardless of the date that they applied. Additionally, we would seek clarification from the Commission on the process for how operators are to receive lists of participants in the VEP. Will all three groups of participants be comingled together and provided as part of one list to sports gaming proprietors, or will there be a separate list of individuals who are specifically prohibited from engaging in



sports gaming that will be provided to sports gaming proprietors? To address this concern, we suggest adding the following subsection to Section 3772-12-07:

Section 3772-12-07(G):

**“(G) Nothing in this rule shall be interpreted to prevent an excluded entity from preventing any Ohio VEP participant from engaging in sports gaming conducted by the excluded entity, regardless of when the Ohio VEP participant submitted an application to join a voluntary exclusion program.”**

\*\*\*\*\*

We appreciate your time and consideration of our comments and would be happy to discuss at your convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Cory Fox', written over a light blue circular stamp.

Cory Fox  
Government Affairs and Product Counsel Vice President

**From:** [Sang Nguyen](#)  
**To:** [Rule Comments](#)  
**Cc:** [Craig Robinson](#); [Roger Bryant](#); [Lou Frascogna \(CDI\)](#); [Chad Riney \(CDI\)](#); [Andrew Silver](#); [John Worthington](#); [Luisa Woods \(DNC\)](#)  
**Subject:** Rules  
**Date:** Friday, February 11, 2022 12:38:47 PM  
**Attachments:** [Sports Gaming Rules Batch 3 Comments MVGR.DOCX](#)

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Dear Ohio Casino Control Commission,

Thank you for the opportunity to comment on Sports Gaming Rules Batch 3. Miami Valley Gaming and Racing LLC would like to propose the following changes.

Thank you.

**Sang Nguyen**

Director of Compliance | Miami Valley Gaming & Racing LLC | 6000 State Route 63 Lebanon, OH 45036

Office: (513) 934-7196 | Email: [Sang.Nguyen@mvgrllc.com](mailto:Sang.Nguyen@mvgrllc.com) | <https://miamivalleygaming.com>

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February 11, 2022

Ohio Casino Control Commission  
100 E. Broad St Fl 20  
Columbus, OH 43215

Re: Sports Gaming Rules Batch 3

Dear Ohio Casino Control Commission,

Thank you for the opportunity to comment on Sports Gaming Rules Batch 3.

Miami Valley Gaming and Racing LLC would like to propose the following changes;

**3772-1-1-01**

The draft definition of “conduct” 1-1-01(B)(2) currently reads “to back, promote, organize, manage, carry on, sponsor, or prepare for the operation of sports gaming in this state and includes participating in the conduct at issue.”

**Comment:** The phrase “prepare for the operation” is very vague. Coupled with 1-4-01(A), which says states that operators cannot “conduct or assist in conducting” wagering without first obtaining a license, this suggests that engaging in all varieties of pre-licensure preparatory activities (i.e. software development, construction, testing, etc.) could be a violation of the regulation. Even negotiating contracts could be a violation, but a contract is required as part of an application.

**Request:** We would suggest the “prepare for the operation” language be removed or, otherwise, to further clarify this definition to account for the concern outlined herein.

**3772-12-03**

**Comment:** Paragraphs (B) and (C) do not account for a scenario in which a customer who places a “futures” sports wager enters into the VEP after placing the wager, but before the wager settles. For example, a customer may place a “future” wager on the winner of next year’s Super Bowl in October 2022, opt into the VEP in December 2022, but the wager would not settle until the Super Bowl in February 2023.

**Request:** We request that the Commission add language clarifying how sports wagering operations should approach this scenario. From our perspective, the options appear to either be to (i) render any pending, unsettled sports wagers “void” as of the time of the entry into the VEP, with the customer entitled to a refund of any pending wagers, or (ii) allow for any pending, unsettled wagers to settle, with the customer entitled to be paid winnings in the event the wager wins, but with the operator allowed to retain the funds in the event of a loss. We take no position as to which option is more appropriate, but we believe that this regulation should account for this scenario one way or the other.

**Comment:** Paragraphs (B) specify “Ohio VEP participant agree to surrender to the casino control commission any money or thing of value the individual has converted or attempted to convert into a wagering instrument, and any prize won, claimed, or attempted to claimed...”. Video Lottery Sales Agent currently remitted all Ohio VEP funds to the Ohio Lottery Commission.

**Request:** We request that the Commission determine whether the surrender funds be remitted to Ohio Casino Control Commission or Ohio Lottery Commission. We also ask for language clarifying the term “attempted to convert into a wagering instrument” as this is ambiguous.



**3772-12-04**

**Comment:** Paragraph (C) requires facilities to notify the commission if a self-excluded person “is found on the premises of an excluded facility or otherwise engaging in gaming or attempting to engage in gaming offered by the excluded entity.” As drafted, it is unclear whether notification is required when a self-excluded person attempts to register for an account on an online sports wagering platform, but is automatically blocked by the platform from registration due to his/her VEP status. Because software can be configured to automatically block such persons from registering (provided the VEP list is provided to online operators), and no gaming activity will take place if such individuals are blocked from registration, we believe that it may be unnecessary to require individual reports each time a person is automatically blocked from registering.

**Request:** We request that the commission either (i) clarify that a report is not required when a person in the VEP is automatically prevented from registering for an account with an online sports wagering platform, or, alternatively, (ii) rather than require an individual report within 72 hours of any such blocked online registration, instead require online wagering operators to submit a periodic report on a monthly, quarterly, or annual basis of any individuals in the VEP blocked from registering for an online account.

**3772-12-06**

**Comment:** Paragraph (A) indicates that this rule applies to all entities and facilities, including online sports pools. However, subparagraph (A)(3)(j) requires the implementation of procedures to prevent patrons impaired by drugs and alcohol from gambling.

**Request:** We believe this to be the case, but we seek clarification that this particular provision only applies to brick-and-mortar facilities, as online operators generally do not have the ability to detect drug and alcohol use by participants in remote locations.

**3772-12-07**

**Comment:** As drafted, it appears that this rule may be intended to establish that individuals who registered for the VEP prior to the effective date of the rule would not be automatically excluded from online sports wagering platforms and, rather, would have to re-register for the VEP in order to be excluded from online sports wagering platforms, but it is not clear.

**Request:** We request that a sentence or subparagraph be added to make the above clear, if that is the intent. Although the language could take a number of formats, we propose, “For avoidance of doubt, the individuals who submitted their application to join the Ohio VEP prior to the effective date of this rule are required to submit an additional application to the Ohio VEP in order to be excluded from online sports wagering platforms.”



Miami Valley and Gaming LLC appreciates the Ohio Casino Control Commission providing us this opportunity to comment on the proposed rules on Sports Gaming in Ohio and your consideration of the points made in these comments.

Sincerely,

Sang Nguyen  
Director of Compliance  
Miami Valley Gaming and Racing LLC  
513-934-7196

cc: Craig Robinson, MVGR  
Roger Bryant, MVGR  
John Worthington, DNC  
Luisa Woods, DNC  
Lou Frascogna, CDI  
Chad Riney, CDI  
Andrew Silver, CDI

**From:** [Laura McAllister Cox](#)  
**To:** [Rule Comments](#)  
**Subject:** Rush Street Interactive - Comments to Sports Gaming Rules, Batch 3  
**Date:** Friday, February 11, 2022 2:23:35 PM  
**Attachments:** [image001.png](#)  
[RSI Comments to Batch 3 - Sports Gaming Rules 2.11.2022.pdf](#)

---

Greetings. Kindly see attached.

**Laura McAllister Cox** | Chief Compliance Officer  
Rush Street Interactive

o. 312.915.2801  
m. 312.771.7620  
e. [lcx@rushstreetinteractive.com](mailto:lcx@rushstreetinteractive.com)

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On behalf of RSI OH, LLC and its parent company, Rush Street Interactive, L.P. ("RSI"), we greatly appreciate the opportunity to provide the following feedback to the Ohio Casino Control Commission concerning the *Gaming Rules, Batch 3 – Involuntary Exclusion, Type C Licensing, and Voluntary Exclusion and Responsible Gaming Plan*. RSI intends to offer both retail and online sports wagering in Ohio under the BetRivers brand.

### **Comment 1**

#### **RSI recommends clarification of the method by which the VEP list will be provided to sports gaming facilities and online operators**

*Currently, RSI receives self-exclusion lists in a variety of different ways. Some states send an encrypted email, while others give us access to their Online portal and we can download the list directly. We also work with states that post an encrypted file to their FTP and we download it and decrypt it.*

*RSI recommends receiving a .csv file directly on a regular cadence that contains the complete list, including new additions, whether that be twice a week, or once a week on Friday's etc.*

*Within that .csv file, there are 2 fields that will allow us to achieve the most accurate results. These fields are DOB and last 4 of SSN.*

### **Comment 2**

**When can RSI expect to receive a sample file so our engineering team can begin to build out our SFTP server?**

### **Comment 3**

#### **Rule 3772-12-05 | Removal from the Ohio voluntary exclusion program.**

(A) A participant in the Ohio VEP is not automatically removed from the program at the end of the applicable exclusion period.

(B) Upon reaching the selected minimum length of voluntary exclusion, an individual may request removal from the Ohio VEP.

(C) An individual may be removed from the one-year or five-year exclusion by requesting and completing an unaltered application for removal.



(D) An individual may be removed from the lifetime exclusion if the individual has:

- (1) Remained in the Ohio VEP for at least five years;
- (2) Completed the Ohio VEP education program on problem gambling awareness; and
- (3) Requested and completed an unaltered application for removal.

**How will removals from the exclusion list be handled?**

*RSI recommends that those individuals who have been removed from the exclusion list be removed from the .csv file sent to us on a regular cadence.*

**Comment 4**

**Rule 3772-12-07 | Prior voluntary exclusions.**

(A) This rule applies only to those individuals who submitted their application to join the casino control commission's voluntary exclusion program prior to March 1, 2019, and those individuals who submitted their application to join the Ohio VEP prior to the effective date of this rule and have not yet sought removal from the applicable program.

(B) The individuals who submitted their application to join the casino control commission's voluntary exclusion program prior to March 1, 2019, may continue their participation and voluntary exclusion from only the four casino facilities in the state of Ohio.

(C) The individuals who submitted their application to join the Ohio VEP prior to the effective date of this rule may continue their participation and voluntary exclusion from only the four casino facilities and seven video lottery terminal facilities in the state of Ohio.

(D) The application for voluntary exclusion signed by the individual at the time of enrollment governs their participation.

(E) These individuals may submit an Ohio VEP application, pursuant to rule 3772-12-02 of the Administrative Code. The individual's selected length of exclusion on this application will supersede their previously selected length of exclusion and will expand to all excluded entities and facilities.

(F) Notwithstanding any rules to the contrary, or the terms of the applicable application to join the voluntary exclusion program, those individuals who selected the lifetime exclusion are permitted to seek removal from the voluntary exclusion program if they comply with the requirements set forth in paragraph (D) of rule 3772-12-05 of the Administrative Code.



*RSI would like clarification as to whether this is something that RSI must consider, or whether this is handled by the Ohio Casino Control Commission.*

**Comment 5**

**May RSI, at its option, offer its own site-only voluntary exclusion?**

**Comment 6**

**Will the Ohio Casino Control Commission be designating a best contact for Responsible Gaming questions?**

**Kindly direct any questions to:**

Laura McAllister Cox  
Chief Compliance Officer  
Rush Street Interactive, L.P.  
900 N. Michigan Avenue  
Suite 1600  
Chicago, IL 60611  
Ph: 312-915-2801  
Email: [lcx@rushstreetinteractive.com](mailto:lcx@rushstreetinteractive.com)

**From:** Derek Longmeier <[dlongmeier@pgnosohio.org](mailto:dlongmeier@pgnosohio.org)>

**Sent:** Friday, February 11, 2022 3:24 PM

**To:** Blackford, Amanda <[Amanda.Blackford@casinocontrol.ohio.gov](mailto:Amanda.Blackford@casinocontrol.ohio.gov)>

**Subject:** PGNO Comments - Sports Gaming Rules Batch 3

Dear Ms. Blackford,

Attached you will find Problem Gambling Network of Ohio's comments regarding Sports Gaming Rules - Batch 3, First Round. We appreciate your willingness to meet with our stakeholders regarding this important matter and look forward to further collaboration.

Sincerely,

Derek Longmeier, MBA, OCPC, ICPS

Executive Director, Problem Gambling Network of Ohio

355 E. Campus View Blvd., Suite 285  
Columbus, OH 43235  
614.750.9899 ext. 101  
[DLongmeier@PGNOhio.org](mailto:DLongmeier@PGNOhio.org)  
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Ohio Problem Gambling Helpline - 800-589-9966

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**Rule 3772:1-1-01 | Definitions.**

(A) The words and terms defined in section 3775.01 of the Revised Code are used in this division as they are defined in that section, unless otherwise specified.

(B) As used in Chapter 3775. of the Revised Code and rules adopted thereunder, the following words have the following meanings, unless the context clearly indicates otherwise:

(1)“Application” means the total written materials, including the instructions, forms, and other documents issued by the commission, comprising an applicant’s request for a license.

(2)"Conduct" means to back, promote, organize, manage, carry on, sponsor, or prepare for the operation of sports gaming in this state and includes participating in the conduct at issue.

(3)“License” or “plenary license” means the complete and approved document issued by the commission that indicates that an applicant has been chosen for licensure and has met all requirements set forth in Chapter 3775. of the Revised Code and the rules adopted thereunder.

(4)"Licensee" means any person who holds a valid plenary or provisional license.

(5)"Person" has the same meaning as in section 3772.01 of the Revised Code.

(6)“Provisional license” means a complete and approved document issued by the Commission that indicates an applicant has been chosen for temporary licensure in accordance with Section 4 of Amended House Bill 29 of the 134<sup>th</sup> General Assembly.

(7)“Sports gaming employee” means any individual required to obtain a sports gaming occupational license under Chapter 3775. of the Revised Code and the rules adopted thereunder.

(8)“Sports gaming equipment” has the same meaning in division (P) of section 3775.01 of the Revised Code, but does not include any device, software, or component that does not affect the operational integrity of sports gaming, as determined by the executive director.

(9)“Suspicious betting activity or pattern” means unusual betting activity or pattern that cannot be explained and is indicative of any conduct that corrupts the outcome of an event or any other prohibited activity.

\*\*\*Please note that the Commission will continue to update this rule as more definitions become necessary. This rule will be provided with all rule batches submitted for stakeholder review and will be updated accordingly.

**Rule 3772:1-1-09 | Sports gaming involuntary exclusion list.**

(A) The "sports gaming involuntary exclusion list" consists of the names and other identifying or descriptive information of those individuals who meet the criteria under Chapter 3772. of the Revised Code and this rule and have been placed on the list in accordance with sections 3772.031, 3772.04, or 3775.13 of the Revised Code. This rule does not govern the Ohio VEP, as described in chapter 3772-12 of the Administrative Code, or any exclusion required by division (F) of section 3775.13 of the Revised Code.

(B) An individual on the sports gaming involuntary exclusion list is prohibited from entering a sports gaming facility or the grounds of a sports gaming facility or from participating in the play or operation of sports gaming in this state.

(C) Each sports gaming proprietor must employ commercially reasonable methods to exclude any individual on the sports gaming involuntary exclusion list from entering their Ohio sports gaming facility and prevent such individual from engaging in sports gaming conducted by the sports gaming proprietor in Ohio.

(D) Each sports gaming proprietor must notify the commission, on a monthly basis, if an individual on the involuntary exclusion list has entered or attempted to enter the sports gaming facility or has engaged in or has attempted to engage in sports gaming conducted by the sports gaming proprietor in Ohio.

(E) This rule does not preclude a sports gaming proprietor from ejecting any individual from its sports gaming facility or from otherwise prohibiting an individual from engaging in sports gaming offered by the sports gaming proprietor for any lawful reason. The sports gaming proprietor may request that the commission place an ejected individual on the sports gaming involuntary exclusion list, but the decision to initiate an involuntary exclusion proceeding or to place an individual on the sports gaming involuntary exclusion list rests solely with the commission.

**Rule 3772:1-4-04 | Type C sports gaming proprietor licensure.**

(A) An applicant for an initial or renewal type C sports gaming proprietor license must complete and submit the appropriate form(s) required by the commission and pay a nonrefundable application fee of fifteen thousand dollars and all fees necessary to cover the cost of any required criminal-records checks.

(B) An applicant for an initial or renewal type C sports gaming proprietor license must establish, by clear and convincing evidence, the applicant's suitability for licensure.

(C) In determining whether to grant, maintain, or renew a type C sports gaming proprietor license, the commission will evaluate and consider the following factors, in addition to those set forth in division (C) of 3775.03 and divisions (B) and (C) of section 3775.041 of the Revised Code:

(1) Whether the type C sports gaming proprietor and any person that controls it possesses good character, honesty, and integrity;

(2) Whether the type C sports gaming proprietor and any person that controls it possesses financial stability, integrity, and responsibility;

(3) The extent to which the type C sports gaming proprietor and any person that controls it have cooperated with the commission in connection with the background investigation;

(4) The extent to which the type C sports gaming proprietor and any person that controls it have provided accurate and complete information as required by the commission;

(5) The suitability of any material person, as determined by the executive director;

- (6) The reputation and business experience of the type C sports gaming proprietor;
  - (7) Whether the type C sports gaming proprietor has entered into agreements to offer sports gaming at type C sports gaming host facilities, subject to regulatory approvals;
  - (8) Whether the type C sports gaming proprietor has been issued a comparable sports gaming license in another gaming jurisdiction with similar licensing requirements, as determined by the commission;
  - (9) The prospective total revenue to be collected by the state for the conducting of sports gaming;
  - (10) The prospective total taxable income to be earned by the type C sports gaming proprietor's employees in the state;
  - (11) The extent to which the type C sports gaming proprietor contributes to the economic development in the state; and
  - (12) The extent to which the type C sports gaming proprietor has complied with the requirements of Chapters 3770. and 3772. and 3775. of the Revised Code and the rules adopted thereunder.
- (D) A type C sports gaming proprietor license expires five years after the date of licensure.
- (E) A type C sports gaming proprietor may request renewal of the license by completing and submitting the appropriate form(s) required by the commission no less than one hundred eighty days before the expiration of the license.
- (F) Upon approval by the commission, at a meeting held under section 3772.02 of the Revised Code, an applicant for an initial or renewal type C sports gaming proprietor license must:
- (1) Pay the nonrefundable license fees as outlined in division (E)(3) of section 3775.04 of the Revised Code;
  - (2) Post and maintain a surety bond of an amount necessary to cover all future license fees owed, payable to the state, which must be issued by a surety that is licensed to do business in this state, as required by division (E) of section 3775.04 of the Revised Code; and
  - (3) Enter into a valid contract with the state lottery commission to operate lottery sports gaming pursuant to Chapters 3770. and 3775. of the Revised Code. Failure to enter into or to maintain a contract with the state lottery commission may be cause for administrative action against the licensee.
- (G) In the event the application fee paid by a type C sports gaming proprietor is insufficient to cover the actual costs of investigating the suitability of the applicant or the persons that control it, the commission may assess additional fees to cover the costs of the investigation that exceed the application fee paid under this chapter.
- (H) Unless otherwise approved by the executive director, all fees must be submitted to the commission in the form of an electronic funds transfer payable to the treasurer of the state of Ohio.

(I) If the executive director determines at any time that a type C sports gaming proprietor licensee has not actively offered sports gaming to patrons under the license for a continued period of one year or more, administrative action to revoke the applicable license will be taken against the licensee. Notice of the proposed action and an opportunity for hearing will be provided in the manner prescribed under Chapter 119. of the Revised Code and Chapter 3772-21 of the Administrative Code. Such administrative action will not affect any other sports gaming proprietor licenses that are held by the licensee.

(J) The applicant should clearly identify those portions of the application that it deems to be confidential, proprietary commercial information, trade secrets, or otherwise not subject to public disclosure. Information provided as part of the application and licensing process is open to public inspection to the extent provided by the Ohio Public Records Act and section 3775.14 of the Revised Code.

**Rule 3772:1-4-07 | Type C sports gaming host licensure.**

(A) An applicant for an initial or renewal type C sports gaming host license must apply for licensure via the state of Ohio eLicense website at [www.elicense.ohio.gov](http://www.elicense.ohio.gov), comply with all instructions, and pay a non-refundable application fee of one thousand dollars. This application fee will be credited as payment of the type C gaming host's license fee, as prescribed by division (C) of section 3775.06 of the Revised Code.

(B) In determining whether to grant, maintain, or renew a type C sports gaming host license, the commission will evaluate and consider the following factors:

(1) Whether the applicant has been issued a valid D-1, D-2, or D-5 liquor permit under Chapter 4303. of the Revised Code;

(2) Whether the applicant has been issued a valid lottery sales agent license under Chapter 3770. of the Revised Code;

(3) Whether the applicant has or will enter into an agreement with a type C sports gaming proprietor to offer sports gaming at its facility, subject to regulatory approval;

(4) Whether the state lottery commission recommends the applicant be issued the license; and

(5) Whether the applicant has complied with the requirements of Chapters 3770. and 3772. and 3775. of the Revised Code and the rules adopted thereunder.

(C) A type C sports gaming host may offer sports gaming through a different type C sports gaming proprietor than the one identified in the applicant's initial license application during the period of the license, subject to the terms of any governing agreement with the type C sports gaming proprietor.

(D) An applicant for a type C sports gaming host license is not required to undergo a criminal background check or suitability investigation to be issued the license.

(E)The commission, at a meeting held under section 3772.02 of the Revised Code, will determine whether the applicant is eligible for the license and whether the applicant has complied with the requirements of Chapters 3772. and 3775. of the Revised Code and the rules adopted thereunder.

(F)A type C sports gaming host license expires three years after the date of licensure.

(G) A type C gaming host licensee may request renewal of the license by completing and submitting the appropriate form(s) required by the commission no less than one hundred twenty days before the expiration of the license.

(H) The applicant should clearly identify those portions of the application that it deems to be confidential, proprietary commercial information, trade secrets, or otherwise not subject to public disclosure. Information provided as part of the application and licensing process is open to public inspection to the extent provided by the Ohio Public Records Act and section 3775.14 of the Revised Code.

**Rule 3772:1-12-01 | Sports gaming voluntary exclusion program.**

The sports gaming voluntary exclusion program, created pursuant to section 3775.02 of the Revised Code, is to be operated in the manner described in chapter 3772-12 of the Administrative Code.

**Rule 3772-12-01 | Definitions, purpose, and scope of the Ohio voluntary exclusion program.**

(A) As used agency 3772 of the Administrative Code, the following words have the following meanings, unless the context clearly indicates otherwise:(1)“Excluded entity” means all casino facilities, as defined in section 3772.01 of the Revised Code; all video lottery terminal facilities, as authorized in section 3770.21 of the Revised Code; and all sports gaming conducted by sports gaming proprietors, as defined in section 3775.01 of the Revised Code.(2)“Excluded facilities” means all casino facilities, as defined in section 3772.01 of the Revised Code; all video lottery terminal facilities, as authorized in section 3770.21 of the Revised Code; and all sports gaming facilities, as defined in section 3775.01 of the Revised Code.(3)“Ohio voluntary exclusion program” or “Ohio VEP” means the combined voluntary exclusion program, consisting of the casino control commission voluntary exclusion program, created pursuant to section 3772.03 of the Revised Code; the lottery commission voluntary exclusion program, created pursuant to section 3770.03 of the Revised Code; and the sports gaming voluntary exclusion program, created pursuant to section 3775.02 of the Revised Code.(4)“Ohio VEP application” means a prescribed contract that an individual must complete and agree to in order to participate in the Ohio VEP.(B) The purpose of this chapter is to help curtail disordered and problem gambling in the state of Ohio by creating the Ohio voluntary exclusion program.(C)Participants in the Ohio VEP agree to exclude themselves from both excluded facilities and excluded entities, as further enumerated in this chapter and the associated Ohio VEP application.(D) Except as described in rule 3772-12-07 of the Administrative Code, no person will be able to voluntarily exclude themselves from only certain aspects or portions of the Ohio VEP.(E)Nothing in this chapter will prohibit participants in the Ohio VEP from entering an excluded facility for the purpose of carrying out the duties of their employment. Any such individual must submit notification of their employment in accordance with the procedure described on a prescribed form.(F)This chapter is to be read in tandem with Chapter 3770:2-8 of the Administrative Code.

**Rule 3772-12-02 | Ohio VEP application.**

(A) Ohio VEP applications will be available for completion at all Ohio casino facilities, video lottery terminal facilities, and the online Ohio VEP portal. If an individual is unable to appear in person at

any of these facilities to complete an application and unable to utilize the online portal, the individual may contact staff from the lottery commission or the casino control commission during regular business hours to make alternative arrangements to complete the application.

(B) No application will be accepted if it was not completed in the presence of either commission's staff or through the online Ohio VEP portal.

(C) As part of the Ohio VEP application, the individual must select the duration of their participation in the Ohio VEP. An individual may select any of the following time periods as a length of exclusion:

(1) A minimum of one year;

(2) A minimum of five years; or

(3) Lifetime, subject to paragraph (D) of rule 3772-12-05 of the Administrative Code.

(D) If an individual completing the Ohio VEP application, in the presence of a casino control commission or lottery commission agent, appears to be doing so involuntarily or while impaired, their application will be rejected.

(E) After an individual's Ohio VEP application has been processed, delivery of written confirmation of their participation in the Ohio VEP will be attempted. Failure of delivery of the notification does not negate the individual's participation in the Ohio VEP.

**Rule 3772-12-03 | Responsibilities of voluntarily excluded individuals.**

(A) Participants in the Ohio VEP agree to abide by all terms listed in the Ohio VEP application, including refraining from entering an excluded facility or engaging in or attempting to engage in gaming offered by an excluded entity.

(B) Participants in the Ohio VEP who violate the terms of the Ohio VEP at a casino or sports gaming facility, or on an online sports pool, agree to surrender to the casino control commission any money or thing of value the individual has converted or attempted to convert into a wagering instrument, and any prize won, claimed, or attempted to be claimed for deposit in the state problem gambling and addictions fund.

(C) Participants in the Ohio VEP must agree to forfeit all points, complimentaries, or promotional credits earned by the individual on or before the date the individual completed their Ohio VEP application. However, if at the time the individual completed the Ohio VEP application, the individual is owed a cash amount from an excluded entity or facility, the individual still has the right to receive that amount from the entity or facility, even after placement on the voluntary exclusion program. To the extent that promotional credits, complimentaries, or points described above may be redeemed for cash under the entity's or facility's marketing program, the individual is entitled to receive that amount.

(D) A voluntarily excluded individual who violates the terms of the Ohio VEP by entering any of the excluded facilities may face charges for criminal trespass.

(E) The individual must remain a participant in the Ohio VEP for at least the minimum duration of their selected length of exclusion before they may request to be removed, subject to paragraph (D) rule 3772-12-05 of the Administrative Code.

(F) An Ohio VEP participant may always request to increase their length of exclusion.

**Rule 3772-12-04 | Responsibilities of excluded entities or facilities.**

(A) This rule only applies to excluded entities or facilities in their capacity as either a casino or sports gaming facility or in their capacity as an online sports pool.

(B) Each excluded entity or facility must maintain a system for indicating whether an individual is in the Ohio VEP and must have approved procedures to update the system with changes in the enrollment status of those individuals at least once every seven days.

(C) An excluded entity or facility must immediately notify commission staff if an Ohio VEP participant is found on the premises of an excluded facility or otherwise engaging in gaming or attempting to engage in gaming offered by the excluded entity. Within seventy-two hours of the incident, the excluded entity or facility must provide to the commission, in writing, the following:

(1) The individual's name;

(2) The individual's date of birth;

(3) The circumstances of the individual's violation or attempted violation of the Ohio VEP; and

(4) The individual's gaming activity, if any.

(D) Each excluded entity or facility must comply with the compulsive and problem gambling plan established under rule 3772-12-06 of the Administrative Code.

(E) Nothing in this chapter prohibits an excluded entity or facility, or its employees and agents, from seeking payment of a debt from an Ohio VEP participant, if the debt was accrued prior to their enrollment in the Ohio VEP.

(F) A casino facility must apply the requirements of this rule to individuals participating in a voluntary exclusion program pursuant to rule 3772-12-07 of the Administrative Code.

**Rule 3772-12-05 | Removal from the Ohio voluntary exclusion program.**

(A) A participant in the Ohio VEP is not automatically removed from the program at the end of the applicable exclusion period.

(B) Upon reaching the selected minimum length of voluntary exclusion, an individual may request removal from the Ohio VEP.

(C) An individual may be removed from the one-year or five-year exclusion by requesting and completing an unaltered application for removal.

(D) An individual may be removed from the lifetime exclusion if the individual has:

- (1) Remained in the Ohio VEP, and has not violated, for at least five years;
- (2) Completed the Ohio VEP education program on problem gambling awareness; and
- (3) Requested and completed an unaltered application for removal.

**Rule 3772-12-06 | Disordered and problem gambling plan.**

(A) Each excluded entity and facility, who is a casino or sports gaming facility or an online sports pool, must provide to the casino control commission a disordered and problem gambling plan for approval. Each plan must, at minimum, include the following:

- (1) The goals of the plan and procedures and timetables to implement the plan;
- (2) The identification of the position responsible for the implementation and maintenance of the plan;
- (3) Policies and procedures, including the following:
  - (a) Procedures for compliance with the Ohio VEP including, at a minimum:
    - (i) Procedures preventing an individual in the Ohio VEP from entering an excluded facility or engaging in or attempting to engage in gaming offered by an excluded entity;
    - (ii) Procedures identifying and removing individuals in the Ohio VEP from an excluded facility;
    - (iii) Procedures for preventing dissemination of any advertisement, promotion, or other direct marketing mailing fifteen days after the individual has been placed in the Ohio VEP;
    - (iv) Procedures for preventing an Ohio VEP participant from having access to credit or from receiving complimentary services, check-cashing services, junket participation, and other benefits;
    - (v) Procedures for ensuring the confidentiality of the identity and the information of the Ohio VEP participants; and
    - (vi) Any other procedure required by the executive director.
  - (b) The duties and responsibilities of the employees designated to implement or participate in the plan;
  - (c) The responsibility of patrons with respect to safer gambling practices;
  - (d) Procedures to identify patrons and employees with suspected or known disordered and problem gambling behavior, including procedures specific to loyalty and other rewards and marketing programs;
  - (e) Procedures for providing information to individuals regarding the Ohio VEP and community, public and private treatment services, peer support groups, and similar treatment or addiction therapy programs designed to prevent, treat, or monitor individuals with a gambling problem or gambling disorder and to counsel family members, including for providing the information upon the request of a patron or employee;



(f) The provision of written material to educate patrons and employees about disordered and problem gambling and to inform them about the Ohio VEP and treatment services available to individuals with a gambling problem or gambling disorder and their families. The excluded entity or facility must provide commission examples of the materials to be used, and a description of how the material will be disseminated;

(g) Advertising and other marketing and outreach to educate the general public about disordered and problem gambling;

(h) An employee training program, including training materials to be utilized and a plan for periodic reinforcement training and a certification process established by the excluded entity or facility to verify that each employee has completed the training required by the plan;

(i) Procedures to prevent underage gambling;

(j) Procedures for excluded facilities to prevent patrons impaired by drugs or alcohol, or both, from gambling; and

(k) The plan for posting signs within an excluded facility, containing information on gambling treatment and on the Ohio VEP, including examples of the language and graphics to be used on the signs;

(4) A list of public and private treatment services, peer recovery support programs, and similar treatment or addiction therapy programs designed to prevent, treat, or monitor individuals with a gambling problem or gambling disorder and to counsel family members; and

(5) Any other information, documents, and policies and procedures that the casino control commission requires.

(B) Each excluded entity or facility must submit quarterly updates and an annual report to the casino control commission of its adherence to the plans and goals submitted under this rule, including any information that the excluded entity or facility has received related to bankruptcy, divorce, crime, and attempted or died by suicide related to gambling offered by an excluded entity or at an excluded facility.

(C) A casino facility must apply the requirements of this rule to individuals participating in a voluntary exclusion program pursuant to rule 3772-12-07 of the Administrative Code.

#### **Rule 3772-12-07 | Prior voluntary exclusions.**

(A) This rule applies only to those individuals who submitted their application to join the casino control commission's voluntary exclusion program prior to March 1, 2019, and those individuals who submitted their application to join the Ohio VEP prior to the effective date of this rule and have not yet sought removal from the applicable program.

(B) The individuals who submitted their application to join the casino control commission's voluntary exclusion program prior to March 1, 2019, may continue their participation and voluntary exclusion from only the four casino facilities in the state of Ohio.

(C) The individuals who submitted their application to join the Ohio VEP prior to the effective date of this rule may continue their participation and voluntary exclusion from only the four casino facilities and seven video lottery terminal facilities in the state of Ohio.

(D) The application for voluntary exclusion signed by the individual at the time of enrollment governs their participation.

(E) These individuals may submit an Ohio VEP application, pursuant to rule 3772-12-02 of the Administrative Code. The individual's selected length of exclusion on this application will supersede their previously selected length of exclusion and will expand to all excluded entities and facilities.

(F) Notwithstanding any rules to the contrary, or the terms of the applicable application to join the voluntary exclusion program, those individuals who selected the lifetime exclusion are permitted to seek removal from the voluntary exclusion program if they comply with the requirements set forth in paragraph (D) of rule 3772-12-05 of the Administrative Code.

**From:** [Robert Wamsley](#)  
**To:** [Rule Comments](#)  
**Subject:** HRC: Sports Gaming Rules Batch 3, Comment Round 1  
**Date:** Friday, February 11, 2022 5:19:15 PM  
**Attachments:** [image001.png](#)  
[image003.png](#)

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Pursuant to discussion with Hard Rock International and our Executive Team, we have no questions or comments at this time.

Respectfully,

Robert

**ROBERT WAMSLEY | DIRECTOR OF COMPLIANCE**

D: 513.250.3117 | M: 513.609.7205

[Robert.wamsley@hrccincinnati.com](mailto:Robert.wamsley@hrccincinnati.com)

**Hard Rock Casino Cincinnati**

1000 Broadway Street | Cincinnati, Ohio 45202

<https://www.hardrockcasinocincinnati.com/>

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# OHIO CASINO CONTROL COMMISSION

## Stakeholder Comments – Batch 3, Comment Round 2

Involuntary Exclusion, Type C Entity Licensing, and Voluntary Exclusion  
Program and Responsible Gambling Plan

Comment Period: February 28, 2022 – March 11, 2022

## Cox, William

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**From:** Samuel.Porter@icemiller.com  
**Sent:** Friday, March 11, 2022 12:17 PM  
**To:** Rule Comments  
**Subject:** Penn Commentary OCCC Sports Gaming Rules (Batch 3 Round 2)  
**Attachments:** Penn Commentary OCCC Sports Gaming Rules (Batch 3 Round 2) \_-c.pdf

Good afternoon,

Please find attached Penn's commentary to OCCC Batch 3, Round 2.

Thanks,  
Sam



**Samuel H. Porter, III** | Partner | Arena District | 250 West Street | Columbus, OH 43215  
P: 614.462.1078 | Cell: 614.286.9241 | [Samuel.Porter@icemiller.com](mailto:Samuel.Porter@icemiller.com)

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## Ohio Casino Control Commission - 2nd Round Sports Gaming Rules (Batch 3)

Area	Rule Reference	Existing Rule Language	Proposed Language	Reason for Change
Definition of "Excluded Entity"	3775-12-01(A)(1)	(A) As used agency 3772 of the Administrative Code, the following words have the following meanings, unless the context clearly indicates otherwise:  (1) "Excluded entity" means all casino facilities, as defined in section 3772.01 of the Revised Code; all video lottery terminal facilities, as authorized in section 3770.21 of the Revised Code; and all sports gaming conducted by sports gaming proprietors, as defined in section 3775.01 of the Revised Code.	(A) As used agency 3772 of the Administrative Code, the following words have the following meanings, unless the context clearly indicates otherwise:  (1) "Excluded entity" means all casino facilities, as defined in section 3772.01 of the Revised Code; all video lottery terminal facilities, as authorized in section 3770.21 of the Revised Code; and all sports gaming conducted by sports gaming proprietors, as defined in section 3775.01 of the Revised Code <u>and rules adopted thereunder</u> .	Penn recommends amending this rule as the definition of "sports gaming proprietor" in section 3775.01 of the Revised Code does not include management services providers ("MSPs") and mobile management services providers ("MMSPs"). Rule 3775-1-01(14), promulgated by the commission, contemplates both MSPs and MMSPs in the definition of "sports gaming proprietor." As Penn believes the definition of "excluded entity" is intended to include all sports gaming conducted by sports gaming proprietors, the proposed amendment makes clear that MSPs and MMSPs are considered "excluded entities" in accordance with Rule 3775-1-01(14).
Monthly submission to OCCC	3772-12-04 (E)	(E) Each excluded entity or facility must provide to the commission a monthly report of the number of participants in the Ohio VEP who were denied entry or sign in to a casino facility, sports gaming facility, or online sports pool.	(E) Each excluded entity or facility must provide to the commission a <del>monthly</del> <u>quarterly</u> report of the number of participants in the Ohio VEP who were denied entry <del>at or sign in to a casino facility, or sports gaming facility, or</del> <u>Each sports gaming proprietor who operates an online sports pool must provide to the commission a quarterly report of the number of participants in the Ohio VEP who attempted to register for an online sports gaming account.</u>	Penn recommends the following changes to Rule 3772-12-04(E):  (1) Amending this rule to align the required reporting period with that of Rule 3772-12-06(B). This amendment creates uniformity amongst the reports required of sports gaming proprietors under the Ohio VEP, allowing both to be submitted pursuant to the same cadence. This results in a more efficient reporting and review process to the benefit of the commission and sports gaming proprietors, alike.  (2) Amending this rule to clarify and differentiate between attempts to engage in in-person and online sports gaming by an individual in the Ohio VEP. In-person wagering can be done in an anonymous manner, while online sports gaming will always require an online sports gaming account.  (3) In order to establish an online account, individuals must first register with a sports gaming proprietor. During the registration process personal identifiable information will be matched against the Ohio VEP list, verifying whether the individual is a participant in the Ohio VEP. Participants in the Ohio VEP will be blocked, thus resulting in no online sports pool sign in activity to monitor. Penn believes the amended rule perpetuates the regulatory oversight by allowing the commission to receive periodic information on participants in the Ohio VEP that attempt to engage in any sports gaming in the state, including an attempt to register an online sports gaming account with an online sports pool offered by a sports gaming proprietor.

## Cox, William

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**From:** Miller, Shelly <mmiller@mgmnorthfieldpark.com>  
**Sent:** Friday, March 11, 2022 2:37 PM  
**To:** Rule Comments  
**Cc:** Bliss, Cindy  
**Subject:** Rules

Good afternoon,

On behalf of MGM Northfield Park and BetMGM, detailed below are comments related to the third batch of sports gaming rules provided for comment by the OCCC on March 1, 2022. Thank you for considering our concerns and comments, we look forward to continuing to work with your agency to establish sports gaming rules in Ohio.

3/11  
[Round 2](#)

**Rule 3775-1-09 Sports gaming involuntary exclusion list** could be improved in two parts. First, it is unclear if the commission is directing entities to create a new monthly report showing involuntary exclusion attempted/actual entries in (D) along with property decisions to exclude in (F)? A new reporting requirement for rare instances adds a ministerial task and is different than the Commission's approach on voluntary excluded patron reporting. For VEP reporting, entities are required to provide *immediate* written notice of a VEP on its premises. Rule 3772-12-04(B). It is unclear why VEP notices should be immediate but notices about people who pose a threat to the state need to be combined in a report and saved for monthly submission.

Second, (F) introduces the phrase that an entity "excludes an individual" when that power is already reserved for the executive director. We believe that the commission means that a casino is "permanently banning" patrons (or something similar) so that the concepts are not confused.

**Rule 3772-12-03 Responsibilities of voluntarily excluded individuals** should include a section memorializing that sports gaming licensees may prohibit VEPs from conducting transactions outside of Ohio according to their corporate policies. That clarity would do two important things: (1) be transparent with potential VEPs about the effects of their enrollment, and (2) further the Commission's interest in helping curtail problem gambling wherever it may happen. See Rule 3772-12-01(B).

**Rule 3772-12-03(C)** broadly states that "No pending sports gaming wager may be voided or cancelled by either party solely due to a participant's enrollment in the Ohio VEP." Under that language, a person who is already on the VEP list who then makes a bet must be allowed to let the bet play out and potentially be paid. The commission should clarify that any bets by a current VEP are void. Differently, any bets made before joining the program may be allowed.

**Rule 3772-12-04 Responsibilities of excluded entities or facilities** establishes that entities prepare a monthly report of VEP ejections. *Id.* at (E). That reporting is unnecessary because the commission also requires immediate reporting on those ejections. We request that the Commission streamline this reporting by eliminating the monthly report.

**Rule 3772-12-06 Disordered and problem gambling plan** requires entities to provide quarterly updates and an annual report to the Commission on the entity's adherence to its RG plan. *Id.* at (B). Quarterly reporting is unnecessary given that the commission is also receiving immediate notices of VEPs on the premises.

Other jurisdictions do not require quarterly reporting. We request that the Commission allow annual reporting, which is in line with other states' practices.

**Rule 3772-12-07 Prior voluntary exclusions** establishes that the commission will allow people who excluded themselves before Ohio adopted sports gaming to gamble online and anywhere outside of the eleven already licensed entities. That creates logistical problems for entities attempting to enforce the state's program. Specifically, entities must review each VEP's application information to determine what level of participation they are participating in. That manual review will lead to errors, and is not a robust enforcement of the exclusion program.

Thank you,

**Shelly Miller**

Compliance Manager  
MGM Northfield Park  
10777 Northfield Road | P.O. Box 670830  
Northfield, OH 44067  
Direct Line: (330) 908-7887  
Cell Phone: (330) 523-6261  
[www.MGMNorthfieldPark.com](http://www.MGMNorthfieldPark.com)



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## Cox, William

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**From:** Andrea Sousa <Andrea.Sousa@betmgm.com>  
**Sent:** Friday, March 11, 2022 4:04 PM  
**To:** Rule Comments  
**Cc:** Jeremy Kolman; Rob O'Connor; Limardo, Rick  
**Subject:** Batch 3 Round 2 Comments  
**Attachments:** FW: MGM Batch 3 Rules Comments

Sir/Madam:

Attached please find an email sent by Shelly Miller earlier today that included comments BetMGM had. BetMGM has no additional comments.

Thank you.

Best,

Andrea Sousa  
Paralegal  
[Andrea.Sousa@betmgm.com](mailto:Andrea.Sousa@betmgm.com)



**BETMGM**



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## Cox, William

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**From:** Andrew Winchell <andrew.winchell@fanduel.com>  
**Sent:** Friday, March 11, 2022 4:12 PM  
**To:** Rule Comments  
**Cc:** Cory Fox  
**Subject:** FanDuel Comments Ohio Casino Control Commission Sports Gaming Rules - Batch 3 - Round 2  
**Attachments:** FanDuel Comments on Batch 3-Round 2 Proposed Ohio Sports Wagering Rules 3.11.22.pdf

Dear Executive Director Schuler,

Thank you for the opportunity to provide comments for the second round of review on the Ohio Casino Control Commission's Sports Gaming Rules – Batch 3. Attached please find our comments and please do not hesitate to contact me if you have any questions or need any additional information from us regarding our comments.

Sincerely,

**Andrew J. Winchell**  
Director, Government Affairs  
845.325.6235 | [andrew.winchell@fanduel.com](mailto:andrew.winchell@fanduel.com)



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Cory Fox  
[cory.fox@fanduel.com](mailto:cory.fox@fanduel.com)

March 11, 2022

*Via Email to [rulecomments@casinocontrol.ohio.gov](mailto:rulecomments@casinocontrol.ohio.gov)*

Matt Schuler, Executive Director  
Ohio Casino Control Commission  
100 East Broad Street, 20<sup>th</sup> Floor  
Columbus, OH 43215

**Re: FanDuel comments on proposed “Sports Gaming Rules, Batch 3 – Round 2 – Involuntary Exclusion, Type C Entity Licensing, and Voluntary Exclusion Program and Responsible Gambling Plan.”**

Dear Executive Director Schuler:

I write to provide comments on behalf of FanDuel Group, Inc. (“FanDuel”) regarding the Ohio Casino Control Commission’s (“Commission”) proposed “Sports Gaming Rules, Batch 3 – Round 2 – Involuntary Exclusion, Type C Entity Licensing, and Voluntary Exclusion Program and Responsible Gambling Plan.” (“Proposed Rules”). Based on our experience as an operator in the online casino gaming, sports betting and fantasy sports industries and collaborator with regulators of sports betting in many states in the development of their regulations, we offer constructive feedback on ways in which the Proposed Rules can be improved for effectiveness and consistency with other state regulations.

Following the Supreme Court’s decision to strike down the Professional and Amateur Sports Protection Act (PASPA) in May of 2018, FanDuel has now become the leading sports wagering operator, and the largest online real-money gaming operator, in the United States. FanDuel currently operates twenty-five (25) brick and mortar sportsbooks in fourteen (14) states and online sports wagering in fifteen (15) states. We thank the Commission for reviewing the comments we submitted for round one and appreciate the opportunity to provide additional feedback. Our comments are arranged in two parts. Part I is focused on issues of concern in the Proposed Rules that may significantly impact the ability of sports wagering operators to successfully operate in Ohio. Part II is focused requests for clarification.

All changes will be shown as follows: proposed additional text will be bolded and underlined and all text to be deleted will be bolded, bracketed, and struck through. For the sake of clarity, where we are suggesting edits to a section that the Commission has also provided edits to, our suggested edits will be in red, and the Commission’s edits will be in black.

**Part I – Operational Concerns.**

- ***Issue 1 – Requirement to submit quarterly updates and annual report about certain activities.***

Section 3772-12-06(B) of the Proposed Rules requires that sports gaming proprietors provide quarterly updates and an annual report on its compulsive and problem gambling plan. While we agree that the Commission should receive an annual report on adherence to the plan, we think that quarterly updates are unnecessary and burdensome.

Additionally, the information requested as part of the updates and report on the compulsive and problem gambling plan includes a requirement that each excluded entity or facility must provide “any information that the excluded entity or facility has received related to bankruptcy, divorce, crime, and attempted or completed suicide related to gambling offered by an excluded entity or at an excluded facility.” We are aware of no other state which requires this type of information for online sports wagering, and, with the exception of any crimes which take place on the premises of an excluded facility, it would be entirely subjective to claim that any of the other activities are “related” to gambling offered by an excluded entity or at an excluded facility. As such, we reiterate our suggestion from round one that this requirement be removed.

To address these concerns, we suggest the following edits:

Section 3772-12-06(B):

“(B) Each excluded entity or facility must submit ~~[quarterly updates and]~~ an annual report to the casino control commission of its adherence to the plans and goals submitted under this rule [; ~~including~~] ~~[, This report must include any information that the excluded entity or facility has received related to bankruptcy, divorce, crime, and attempted or completed suicide related to gambling offered by an excluded entity or at an excluded facility, including:~~

~~(1) The name and date of birth of any individual;~~

~~(2) How the entity or facility came to know of the incident; and~~

~~(3) A brief description of the incident].”~~

- ***Issue 2 – Requirement to report monthly on the number of VEP participants who were denied entry or sign in to a casino facility, sports gaming facility, or online sports pool.***

Section 3772-12-04(E) of the Proposed Rules requires that sports gaming proprietors must provide to the Commission a monthly report of the number of Ohio VEP participants who were denied entry or sign in to a casino facility, sports gaming facility, or online sports pool. This is not a standard requirement in other jurisdictions and since the Commission will be receiving detailed reports on Ohio VEP participants who are found on the premises or engaging in sports gaming through online sports pools pursuant to subsection (D) of this section, this requirement is

unnecessary. We suggest this requirement be removed. To address this concern, we suggest the following edits:

Section 3772-12-04(E):

**“(E) Each excluded entity or facility must provide to the commission a monthly report of the number of participants in the Ohio VEP who were denied entry or sign in to a casino facility, sports gaming facility, or online sports pool.”**

**Part II - Requests for Clarification.**

- ***Issue 1 – Clarification that excluded entities may restrict or block access for individuals on any self-exclusion list.***

Section 3772-12-07 of the Proposed Rules provides that certain VEP participants, based on the day they submitted their application, may limit their VEP participation to only the four casino facilities or the four casino facilities and the seven video lottery facilities. While we understand the Commission’s rationale for this section, we would request clarification that sports gaming proprietors have the ability to choose to restrict or block access to individuals in the VEP regardless of the date that they applied. This would be in line with authority of sports gaming proprietors to prohibit an individual from engaging in sports gaming for any lawful reason under Section 3775-1-09(E) of the Proposed Rules.

Additionally, we would seek clarification from the Commission on the process for how operators are to receive lists of participants in the VEP. We would strongly suggest to the Commission that if sports gaming proprietors are expected to only prohibit those VEP participants who have excluded after the effective date of this rule, that a separate list of only those individuals is provided to sports gaming proprietors. Additionally, any such list provided to sports gaming proprietors should include full name, address, electronic mail address, date of birth, and social security number. To address this concern, we suggest adding the following subsection to Section 3772-12-07:

Section 3772-12-07(G):

**“(G) Nothing in this rule shall be interpreted to prevent an excluded entity from preventing any Ohio VEP participant from engaging in sports gaming conducted by the excluded entity, regardless of when the Ohio VEP participant submitted an application to join a voluntary exclusion program.”**

- ***Issue 2 – Addition of the word “participant.”***

Section 3772-12-04(D) of the Proposed Rules, as edited in round two, updates the requirement for sports gaming proprietor to provide a report to the Commission in the event that an Ohio VEP participant is found to be on the premises or engaging in sports gaming. However, it appears the



word “participant” was inadvertently left out. To address this concern, we suggest the following edits:

Rule 3772-12-04(D):

“~~[(C)]~~ **(D)** Within seventy-two hours of ~~[the incident, the]~~ **an Ohio VEP participant being found on premises or engaging in sports gaming through an online sports pool, an** excluded entity or facility must provide to the commission, in writing, the following:

- (1) The individual’s name;
- (2) The individual’s date of birth;
- (3) The circumstances of the individual’s violation or attempted violation of the Ohio VEP; and
- (4) The individual’s gaming activity, if any.”

\*\*\*\*\*

We appreciate your time and consideration of our comments and would be happy to discuss at your convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Cory Fox', written over a light blue circular stamp.

Cory Fox  
Government Affairs and Product Counsel Vice President

## Cox, William

---

**From:** Kevin Cochran <kcochran@draftkings.com>  
**Sent:** Friday, March 11, 2022 4:19 PM  
**To:** Rule Comments  
**Cc:** Christopher Cipolla  
**Subject:** DraftKings Comments on Sports Gaming Rules Batch 3, Round 2  
**Attachments:** DraftKings - Sports Gaming Batch 3 Round 2 Comments - 3-11-2022 .pdf

Good afternoon,

Thank you for the opportunity to provide comments on the Sports Gaming Rules, Batch #3, Round #2. Please find DraftKings Inc.'s ("DraftKings") comments attached. We appreciate your consideration of our comments and do not hesitate to reach out to us if you have any questions regarding our submitted comments or anything else related to sports gaming.

Thanks and have a nice weekend,

**KEVIN COCHRAN**

Director, Legal and Government Affairs  
DraftKings Inc.  
215-290-4428



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March 11, 2022

**Via E-Mail to** [rulecomments@casinocontrol.ohio.gov](mailto:rulecomments@casinocontrol.ohio.gov)

Executive Director Matt Schuler  
Deputy Executive Director Rick Anthony  
Ohio Casino Control Commission  
100 East Broad Street, 20th Floor  
Columbus, OH 43215

**Re: Initial Sports Gaming Rules, Batch #3, Round #2**

Dear Executive Director Schuler and Deputy Executive Director Anthony,

Following receipt of the Ohio Casino Control Commission's ("Commission") request for input on the Initial Sports Gaming Rules, Batch #3, Round #2, DraftKings Inc. ("DraftKings") submits the following comments for consideration. As a leading sports wagering operator in the United States, DraftKings has first-hand experience with sports wagering regulatory frameworks, and submits these comments based on its operational knowledge in multiple regulated markets.

**Rule 3775-1-09 Sports gaming involuntary exclusion list.**

Rule: 3775-1-09(D)

Rationale: DraftKings respectfully requests limiting the monthly reporting requirement for persons on the involuntary exclusion list that have engaged or attempted to engage in sports gaming to Type B sports gaming proprietors. For mobile sports wagering, when a player is placed on any kind of list that requires them to be blocked, their account is completely disabled. Therefore, under this requirement, Type A sports gaming proprietors would only be sending records of people that tried to log into their account but were unsuccessful. While possible to compile this list, DraftKings believes a requirement to report attempts to engage in sports gaming is more applicable to a retail, and not mobile environment, and therefore respectfully requests the following change.

Existing Rule Language/Proposed Rule Language:

*(D) Each **Type B** sports gaming proprietor must notify the commission, on a monthly basis, if an individual on the involuntary exclusion list has entered or attempted to enter the sports gaming facility or has engaged in or has attempted to engage in sports gaming conducted by the **Type B** sports gaming proprietor in Ohio.*





### **Rule 3772-12-03 Responsibilities of voluntarily excluded individuals.**

Rule Reference: 3775-12-03(C)

Rationale: DraftKings respectfully requests clarification on the requirement for participants in the Ohio VEP to agree to forfeit all points, complimentaries or promotional credits, as the last sentence states an individual is entitled to receive them if they are redeemable for cash. DraftKings respectfully requests that a player be entitled to receive the cash value, if any, of all points, complimentaries or promotional credits. The changes below allow operators to establish account closure procedures that align with other sports wagering jurisdictions by paying players for the value of funds in their account and not creating a manual process to remove certain bonuses and promotions that do not have any redeemable cash value from deactivated player accounts. These changes have the additional benefit of being clearer and less onerous for operators.

Existing Rule Language/Proposed Rule Language:

*(C) ~~Participants in the Ohio VEP must agree to forfeit all points, complimentaries, or promotional credits earned by the individual on or before the date the individual completed their Ohio VEP application. However, if~~ **If** at the time the individual completed the Ohio VEP application, the individual has placed a wager that is not yet decided or is owed a cash amount from an excluded entity or facility, the individual still has the right to receive the amount owed, including the amount due as a result of any pending wager winning, being voided, or otherwise being canceled from the entity or facility, even after placement on the voluntary exclusion program. No pending sports gaming wager may be voided or cancelled by either party solely due to a participant's enrollment in the Ohio VEP. To the extent that **the individual has earned** promotional credits, complimentaries, or points described **that** may be redeemed for cash under the entity's or facility's marketing program, the individual is entitled to receive that amount.*

### **Rule 3772-12-04 Responsibilities of excluded entities or facilities.**

Rule Reference: 3775-12-04(E)

Reason for Change: For similar reasons to our comment to 3775-1-09(D), DraftKings respectfully requests the requirement for monthly reports on the number of Ohio VEPs attempting to access gaming facilities or online sports pools be limited to retail. While possible to compile this list, DraftKings believes the requirement for reporting those on the VEP list attempting to enter a



facility are more beneficial than those attempting to sign into an online sports pool, and therefore respectfully requests the following changes.

Existing Rule Language/Proposed Rule Language:

*(E) Each excluded entity or facility must provide to the commission a monthly report of the number of participants in the Ohio VEP who were denied entry ~~or sign in~~ to a casino facility, or sports gaming facility, ~~or online sports pool~~.*

\* \* \* \* \*

Thank you for your consideration of DraftKings' comments regarding the Commission's Initial Sports Gaming Rules, Batch #3, Round #2, and please reach out if we can be a resource in any way.

Sincerely,

DraftKings Inc.

**From:** [Lisa Powers](#)  
**To:** [Rule Comments](#)  
**Subject:** Sports Gaming Rules - Batch 3, Round 2  
**Date:** Friday, March 11, 2022 4:50:59 PM

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Good Afternoon,

JACK Cleveland Casino and JACK Thistledown Racino respectfully submit the following comments for consideration:

**Sports Gaming Rules – Batch 3, Comment Round 2**

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**Rule 3775-1-09 | Sports gaming involuntary exclusion list.**

1. 3775-1-09(D) – We respectfully request that there is no requirement for notification on a monthly basis for an involuntary excluded person’s entries or attempted entries, but a quarterly reporting requirement or reporting that takes place through existing security communication channels with the Commission using approved procedures.
2. 3775-1-09(D) – We respectfully request removal of tracking attempted logins to an online sports pool. There is not a mechanism to trigger any attempted login for the online sports pool. The login attempt to the website/mobile application would simply be blocked because the account would be blocked/deactivated and unavailable to the involuntary excluded person.
3. 3775-1-09(F) – We respectfully request removal of a monthly reporting requirement of reporting security-banned patrons because of the broad range of reasons for which a patron may be banned from a sports gaming facility or the building that contains the sports gaming facility. Separately, there is already a reporting requirement for sports gaming activity that is prohibited.

**Rule 3772-12-03 | Responsibilities of voluntarily excluded individuals.**

1. 3772-12-03(B) – We suggest adding that the prize or amount won can be claimed as provided in Paragraph (C) of this rule (in the event the wager was not yet decided at the time of enrollment in the Ohio VEP).

**Rule 3772-12-04 | Responsibilities of excluded entities or facilities.**

1. 3772-12-04(C) – We respectfully request an exception for when the VEP participant is found on premises and initiates reinstatement of their privileges or when there was notification sent in advance to the Commission for coordinated payment to the VEP participant for cash owed.
2. 3772-12-04(E) – We respectfully request this to be a quarterly requirement, to align with existing practices for reporting VEP attempted entries.
3. 3772-12-04(E) – We respectfully request removing “online sports pool” and “sign in” because there is no tracking available for attempted entries into an online sports pool via website/mobile application. The login is simply rejected.

Please let me know if you have any questions or require additional information.

Thank you,

Lisa

**LISA POWERS**

DIRECTOR OF COMPLIANCE

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