

# RULES AND REGULATIONS

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

### STATE BOARD OF VETERINARY MEDICINE [49 PA. CODE CH. 31] Certified Veterinary Technician Specialists

The State Board of Veterinary Medicine (Board) amends §§ 31.1 and 31.38 (relating to definitions; and code of ethics for certified veterinary technicians) to read as set forth in Annex A. The final-form rulemaking defines a veterinary technician specialist (VTS) as a certified veterinary technician (CVT) who holds current certification from a specialty organization recognized by the National Association of Veterinary Technicians in America (NAVTA). In addition, the final-form rulemaking prohibits a CVT from making false, deceptive or misleading statements or claims, including representation that the CVT is a specialist or a VTS unless appropriately qualified.

#### *Effective Date*

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

#### *Statutory Authority*

Section 11 of the Veterinary Medicine Practice Act (63 P. S. § 485.11) authorizes the Board “to promulgate by regulation the qualifications and requirements for the certification and regulation of veterinary technicians . . . to provide for disciplinary action and . . . [to] prescribe the grounds for such action.” This final-form rulemaking regulates the qualifications and conduct of veterinary technicians and, through § 31.39(1) (relating to grounds for disciplinary proceedings), provides for disciplinary action against a CVT for violations of these regulations.

#### *Background and Purpose of the Final-Form Rulemaking*

Over the past several years, it has become increasingly common for CVTs to obtain specialized education and training in a specialty area beyond the minimum education required for certification. In addition, it has become increasingly common for CVTs to hold themselves out to the public and coworkers as specialists. This final-form rulemaking is intended to protect the public from being misled by CVTs who hold themselves out as specialists unless they have been granted specialist status by a National accrediting body that ensures the competence of the CVT in a particular area.

#### *Summary of Comments and the Board's Response*

Notice of proposed rulemaking was published at 36 Pa.B. 1240 (March 18, 2006). The Board received one public comment submitted jointly by the Pennsylvania Veterinary Medical Association and the Veterinary Technicians and Assistants Association of Pennsylvania, which indicated that both of these organizations fully supported the rulemaking.

The House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) provided comments as part of their review of the proposed rulemaking. Both the HPLC and IRRC asked for

specific information regarding what acts other than representing oneself as a specialist would qualify as making a false, deceptive or misleading statement or claim. In response to this question, the Board has added a cross-reference to Principle 5(a) of § 31.21 (relating to Rules of Professional Conduct for Veterinarians), which contains a definition of “false, deceptive or misleading statement or claim.”

The HPLC asked for detailed information regarding the Board's statement that this final-form rulemaking was a necessary precursor to another proposed rulemaking. The Board is in the process of drafting proposed rulemaking regarding dental practice on animals. Veterinary dentistry is one of the three veterinary technician specialties currently recognized by NAVTA. The Board intends to propose a broader scope of practice for a VTS who is a specialist in dentistry. Therefore, this final-form rulemaking is necessary to make it clear that the broader scope of practice would apply only to CVTs who have been granted certification by the Academy of Veterinary Dental Technicians.

IRRC also noted that the Board did not define the term “veterinary technician specialist” or “VTS.” In the final-form rulemaking, the Board has added a definition of “VTS-veterinary technician specialist” to § 31.1.

#### *Description of the Amendments*

Section 31.1 has been amended by adding a definition of “VTS—veterinary technician specialist” as “a certified veterinary technician who holds current certification from a specialty organization recognized by the National Association of Veterinary Technicians in America (NAVTA).”

Section 31.38 has been amended to prohibit a CVT from making a false, deceptive or misleading statement or claim. Amendments to the final-form rulemaking clarify that a false, deceptive or misleading statement or claim includes those items identified in Principle 5(a) of § 31.21, as well as any representation that the CVT is a specialist or a VTS, unless the CVT holds a current certification from a specialty organization recognized by NAVTA.

#### *Fiscal Impact and Paperwork Requirements*

The final-form rulemaking should not have financial impact on licensees or other State entities. The final-form rulemaking will have no fiscal impact on the public. The final-form rulemaking may have a small fiscal impact on the Board regarding additional disciplinary matters if technicians violate a regulation. There are no additional paperwork requirements associated with the final-form rulemaking.

#### *Sunset Date*

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 8, 2006, the Board submitted a copy of the notice of proposed rulemaking, published at 36 Pa.B. 1240, to IRRC and the Chairpersons of the HPLC and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of

the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on May 23, 2007, the final-form rulemaking was approved by the HPLC. On June 6, 2007, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 7, 2007, and approved the final-form rulemaking.

#### Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing act identified in this preamble.

#### Order

The Board, acting under its authorizing statute, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 31, are amended by amending §§ 31.1 and 31.38 to read as set forth in Annex A.

(*Editor's Note:* The amendment of § 31.1 was not included in the proposed rulemaking published at 36 Pa.B. 1240.)

(b) The Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General as required by law.

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

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

THOMAS J. MCGRATH, D.V.M.,  
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 37 Pa.B. 2909 (June 23, 2007).)

**Fiscal Note:** Fiscal Note 16A-5716 remains valid for the final adoption of the subject regulations.

#### Annex A

### TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

#### PART I. DEPARTMENT OF STATE

#### Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

#### CHAPTER 31. STATE BOARD OF VETERINARY MEDICINE

#### GENERAL PROVISIONS

#### § 31.1. Definitions.

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

*Act*—The Veterinary Medicine Practice Act (63 P. S. §§ 485.1—485.33).

*Advertising*—Newspaper and periodical announcements and listings, professional cards, office and other signs, letterheads, telephone and other directory listings, and other forms of communication designed to inform the public about the availability, nature or prices of products or services.

*Animal abuse*—The wanton or cruel treatment of an animal, including overworking, beating or otherwise neglecting an animal.

*Approved school*—A school accredited by the American Veterinary Medical Association, including provisionally, probationally and fully accredited programs.

*Board*—The State Board of Veterinary Medicine.

*Certified veterinary technician*—A veterinary technician certified by the Board.

*Client*—A person who engages the professional services of a veterinarian for the care and treatment or the prevention, cure or alleviation of disease or injury, of an animal.

*Consultation*—A deliberation between two or more licensed veterinarians or a licensed veterinarian and other licensed professional concerning the diagnosis of an animal's condition, the care to be provided and the proper management of the case.

*Direct veterinary supervision*—A veterinarian has given either oral or written instructions to the certified veterinary technician or noncertified employee, is on the premises and is easily and quickly available to assist the certified veterinary technician or the noncertified employee.

*Endorsement or testimonial*—A statement of recommendation made through a form of mass communication or correspondence by a veterinarian to the general public which is commercially rather than educationally motivated and is intended to influence attitudes regarding the purchase of a veterinary drug, device, product or procedure.

*Immediate veterinary supervision*—A veterinarian is in visual and audible range to assist the noncertified employee.

*Indirect veterinary supervision*—A veterinarian is not on the premises but is acquainted with the keeping and care of the animal by virtue of an examination of the animal or medically appropriate and timely visits to the premises where the animal is kept, and has given written or oral instructions to the certified veterinary technician for treatment of the animal patient.

*Merchandising*—Buying and selling of professional veterinary products without a veterinarian/client relationship.

*Neglect*—To abandon an animal or deprive an animal over which one has a duty of care, whether belonging to himself or otherwise, of necessary sustenance, drink, shelter or veterinary care or access to sanitary shelter which will protect the animal against inclement weather, preserve the animal's normal temperature and keep it dry.

*Noncertified employee*—An employee of a veterinarian who does not hold certification as a veterinary technician and whom the veterinarian deems competent to adminis-

ter medication or render auxiliary or supporting assistance under direct veterinary supervision or immediate veterinary supervision.

*Professional veterinary product*—One which requires professional veterinary knowledge in the administration of or in the giving of instructions for safe and proper use of the product, including prescription drugs, biologicals, pharmaceuticals and prescription diets.

*Solicitation*—Advertising intentionally directed to specific individuals.

*VTS—Veterinary technician specialist*—A certified veterinary technician who holds current certification from a specialty organization recognized by the National Association of Veterinary Technicians in America (NAVTA).

*Veterinarian*—A licensed doctor of veterinary medicine as defined in section 3 of the act (63 P. S. § 485.3).

**VETERINARY TECHNICIANS AND NONCERTIFIED EMPLOYEES**

**§ 31.38. Code of ethics for certified veterinary technicians.**

(a) The certificate of a certified veterinary technician will only be valid for use when the holder is in the employ of or under the supervision of a veterinarian licensed in this Commonwealth.

(b) The holder of a certificate may not accept a direct fee for services rendered as a certified veterinary technician from other than the certificateholders' employer.

(c) A certified veterinary technician may not compromise the confidentiality of the doctor-client relationship.

(d) A certified veterinary technician who deals or communicates directly with a client shall explain to the client that the certified veterinary technician is not a veterinarian.

(e) A certified veterinary technician shall be responsible to the client and to the veterinarian in the following respects:

(1) To undertake only what the veterinarian authorizes or directs.

(2) To perform the veterinary technician's work only in the manner directed by the veterinarian and to employ the veterinary technician's best care and skill in performing all work for the veterinarian. The veterinary technician may not undertake any work which the veterinary technician is not capable of performing satisfactorily.

(f) A certified veterinary technician may not undertake an assignment that the certificateholder is not capable of performing.

(g) A certified veterinary technician may not make a false, deceptive or misleading statement or claim. A false, deceptive or misleading statement or claim includes the statements and claims defined in Principle 5(a) of § 31.21 (relating to Rules of Professional Conduct for Veterinarians) and any representation that the certified veterinary technician is a specialist, or a VTS, unless the certified veterinary technician holds current certification from a specialty organization recognized by the National Association of Veterinary Technicians in America.

[Pa.B. Doc. No. 07-1274. Filed for public inspection July 20, 2007, 9:00 a.m.]

**STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS**

[49 PA. CODE CH. 36]

**Federally Mandated Education Criteria**

The State Board of Certified Real Estate Appraisers (Board) amends Chapter 36 to read as set forth in Annex A.

The final-form rulemaking constitutes a general updating and revision of the Board's regulations. Specifically, the final-form rulemaking implements new Federally-mandated education and experience criteria for the initial certification of residential real estate appraisers and general real estate appraisers that will take effect in January 2008; amends current Board requirements to conform to existing Federal criteria regarding distance education, continuing education and appraisal teaching experience; clarifies the manner in which applicants for certification as residential and general appraisers may obtain qualifying experience in the preparation of appraisal reports; clarifies the duties of residential and general appraisers when supervising the activities of appraisal assistants; upgrades the continuing education requirement for certified Pennsylvania evaluators (CPE); and makes editorial and organizational changes to the regulations to improve clarity and comprehension.

*Statutory Authority*

The final-form rulemaking is authorized under sections 5(2), 6(f) and 10(b) of the Real Estate Appraisers Certification Act (REACA) (63 P. S. §§ 457.5(2), 457.6(f) and 457.10(b)) and sections 3, 4(d) and 12 of the Assessors Certification Act (ACA) (63 P. S. §§ 458.3, 458.4(d) and 458.12).

*Summary of Comments and Responses to Proposed Rulemaking*

The Board published a proposed rulemaking at 36 Pa.B. 2530 (May 27, 2006) with a 30-day public comment period. The Board received comments from the Appraisal Subcommittee (ASC), a Federal agency charged with overseeing the activities of state appraiser regulatory bodies and the Pennsylvania Association of Realtors (PAR).

The Board received comments from the Independent Regulatory Review Commission (IRRC) and the House Professional Licensure Committee (HPLC) as part of their review of proposed rulemaking under the Regulatory Review Act (71 P. S. §§ 745.1—745.15). The Board did not receive comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) as part of its review of proposed rulemaking under the Regulatory Review Act.

*Federal oversight*

As noted in the preamble of the proposed rulemaking, the Board is required under the REACA to comply with the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) (Pub. L. No. 101-73, 103 Stat. 183), the Federal legislation that established the broad framework by which state appraiser regulatory bodies are to credential appraisers to perform appraisals in Federally-related transactions. The nonprofit Appraisal Foundation, through its Appraiser Qualifications Board (AQB) and the Appraisal Standards Board (ASB), is charged under the FIRREA with establishing the minimum initial education, continuing education, examination and experience requirements for state-credentialed ap-

praisers and establishing the minimum practice standards, known as the Uniform Standards of Professional Appraisal Practice (USPAP), for use by state-credentialed appraisers. The ASC, an arm of the Federal Financial Institutions Examination Council, is charged under the FIRREA with overseeing the activities of states and the Appraisal Foundation in carrying out the requirements of the FIRREA.

The HPLC asked the Board to explain the process by which the ASC and states ensure compliance with the FIRREA and to describe the nature of the ASC's contacts with the Board with respect to the rulemaking.

The Board receives regular notifications from the AQB and the ASB about proposed and finalized changes in appraiser qualifications and practice standards, respectively. The ASC monitors the activities of states through periodic onsite field reviews of state appraiser regulatory programs and maintaining frequent communications with state appraiser regulatory agencies. Until September 2005, each state appraiser regulatory program was reviewed by the ASC at least once every 3 years; the new review cycle is every 2 years. The ASC promulgated a series of policy statements that establish the framework by which the ASC evaluates a state appraiser regulatory program for compliance with the FIRREA. The policy statements cover the areas of state regulatory structure and independence of functions, appraiser classifications, appraisal standards, written appraisal reports, temporary practice, reciprocity, prohibition against discrimination, National registry of state certified and licensed appraisers, information sharing and enforcement.

In preparing for a field review, the ASC staff obtains from the state appraiser regulatory agency copies of all current laws, regulations and policies, minutes of agency meetings, a log of all complaints received, a listing of approved education courses and other information relevant to the administration of the state appraiser regulatory program. The field review is conducted over a period of 2 or 3 days, usually in conjunction with a meeting of the state appraiser regulatory agency and evaluates every aspect of the state appraiser regulatory program, with special emphasis being given to enforcement activities. The ASC staff reports its findings and recommendations to the ASC, which, in turn, issues a field review letter to the state appraiser regulatory agency. The ASC's field review letter identifies those aspects of the state appraiser regulatory program that require improvement for the state to maintain compliance with the requirements of the FIRREA and invites the state appraiser regulatory agency to submit its responsive comments.

In its 2000 and 2003 field reviews, the ASC recommended that the Board amend its regulations for consistency with AQB criteria, specifically with regard to distance education and appraisal teaching experience. In January 2004, the ASC reviewed an exposure draft of the recommended revisions that were included as part of a general updating of the Board's regulations. The Board subsequently decided to expand its rulemaking to include the significant changes in AQB criteria that were approved in February 2004 and will take effect on January 1, 2008. On June 19, 2006, the ASC submitted comments on the proposed rulemaking as a follow-up to its field review on June 7 and 8, 2006.

*§ 36.2—Compliance with new requirements*

The proposed rulemaking restated in § 36.2(e) (relating to application process) the existing rule that an applicant for initial certification as a residential or general ap-

praiser is required to comply with increased education or experience requirements that take effect between the applicant's filing of an application for initial certification and the applicant's passing the certification examination. The proposed rulemaking further provided that an exception to this rule is in §§ 36.11 and 36.12 (relating to qualifications for certification as residential real estate appraiser; and qualifications for certification as general real estate appraiser), which prescribe the education and experience requirements for initial certification as a residential appraiser and general appraiser, respectively.

The HPLC asked whether § 36.2(e) is mandated by the ASC. IRRC questioned the reasonableness of requiring an applicant to complete additional requirements after the applicant has already paid a fee to the Board and has been approved to sit for the certification examination. As stated in the preamble of the proposed rulemaking, when it last amended § 36.2 in 1994, the Board was acting on the ASC's instructions that an applicant for initial certification must meet the AQB's education and experience requirements that are in effect at the time of certification. See 24 Pa.B. 6298 (December 17, 1994). The exception to that rule adopted by the Board is permitted under the AQB's current qualifications criteria.

IRRC asked what notice an approved applicant would receive of an increase in education and experience requirements so that the applicant may comply before scheduling to take the certification examination. The AQB announces new education and experience requirements well in advance of their effective dates. In addition to amending its regulations, the Board publicizes pending changes in appraiser qualifications in its annual newsletter and in special mailings to individuals who are listed on the Board's voluntary registry of appraisal assistants. An applicant for initial certification would be aware of imminent new requirements prior to submitting an application.

IRRC also asked what action the Board would take if an approved applicant could not complete increased education or experience requirements within the 1-year approval period to take the certification examination. Under § 36.2(c), an approved application is deemed withdrawn if the applicant does not complete the examination within 1 year. The Board would require the applicant to submit a new application, showing completion of the increased requirements. Section 6(d) and (e) of the REACA requires an applicant for initial certification as a residential or general appraiser to satisfy education and experience requirements before being admitted to the certification examination.

IRRC also questioned the need for § 36.2(e) given that §§ 36.11 and 36.12 prescribe the education and experience requirements for initial certification. The subsection is needed because it makes clear that the filing of an application, even one that is approved by the Board, does not necessarily relieve the applicant of having to comply with new requirements that take effect prior to the applicant's initial certification.

*§§ 36.11(b)(4), 36.12(b)(4), 36.43, 36.224 and 36.263—Distance education*

Sections 36.11(b)(4) and 36.12(b)(4) and § 36.224 (relating to distance education courses) prescribe the distance education requirements regarding initial education for a residential appraiser, general appraiser and CPE, respectively. Sections 36.43 and 36.263 (relating to distance education) prescribe the distance education requirements regarding continuing education for a residential and general appraiser and a CPE, respectively.

The PAR noted that the distance education requirements for continuing education mandate, in most instances, that a proctored written examination be administered to the participant. The PAR commented that while a proctored written examination is appropriate for distance education courses that are utilized to satisfy initial education requirements because of the need to verify mastery of knowledge and skills required for initial certification, an examination requirement is less useful for distance education courses that are utilized for continuing education purposes because it defeats the important benefits of convenience and flexibility that help practitioners maintain current competency. The PAR further commented that many on-line continuing education courses are designed with an on-line examination function that measures mastery of the course material. IRRC's comments reiterated the concerns expressed by the PAR.

The Board agrees with the PAR and IRRC that a proctored written examination is not necessary for a distance education course offered for continuing education purposes. The Board's current regulations do not require an examination for continuing education courses that are offered in a nondistance education format. Moreover, AQB distance education criteria regarding continuing education courses stipulate that as an alternative to having the participant successfully complete a proctored written examination, it is acceptable if the participant "successfully completes the course mechanisms required for [course] accreditation that evidence the [participant's] mastery and fluency of the course content." The final-form rulemaking incorporates this language into §§ 36.43 and 36.263.

IRRC also asked whether "on-line" courses are acceptable as distance education under the Board's regulations. The definition of "distance education" in § 36.1 (relating to definitions), which is based on AQB criteria, specifically refers to "on-line learning." Accordingly, on-line courses may be accepted as distance education if they satisfy the distance education requirements in §§ 36.11(b)(4), 36.12(b)(4), 36.43, 36.224 and 36.263.

The proposed rulemaking contained references to the International Distance Education Certification Center (IDECC) in §§ 36.11(b)(4), 36.12(b)(4), 36.43, 36.224 and 36.263. IDECC approval of course design and delivery mechanism is required for distance education providers that are not accredited colleges or universities and whose course offerings do not involve the presentation of the course to an organized group in an instructional setting with a qualified person available to answer questions, provide information and monitor attendance.

The HPLC requested that the Board provide additional information about the IDECC. The IDECC is a nonprofit organization comprised of education and regulatory specialists from the United States and Canada which was formed in 2000 as a subsidiary of the Association of Real Estate License Law Officials. The IDECC's initial purpose was to develop standards for certifying the delivery systems of distance education courses used in the field of real estate. The IDECC evaluates matters as verifying the identity of participants, verifying the hours completed by participants and monitoring the appropriate levels of interactivity within the course. In recent years, the IDECC's services have been used by regulators in other occupations that authorize distance education, such as insurance and real estate appraising. AQB criteria mandate that state appraiser regulatory agencies require IDECC approval.

The PAR and IRRC questioned whether IDECC approval applies to a distance education course that is offered by a "secondary provider," that is, a provider that obtains the right to offer a course from a course developer, or "primary provider," that previously received IDECC approval as to course design and delivery mechanism. The ASC advised the Board that, under AQB criteria, IDECC approval is required of the actual course provider, regardless of whether the course provider acquired the course from another provider with IDECC approval.

Consistent with the suggestion of the HPLC and IRRC, the final-form rulemaking includes a definition of "IDECC" in § 36.1 so that the organization can be referenced elsewhere in the regulations by its abbreviation rather than by its full name.

IRRC asked whether the Board maintains a list of approved providers of distance education courses. The Board's website contains a list of approved course providers and their courses; distance education courses are specifically such. The Board updates the list regularly.

*§§ 36.11(c) and 36.12(c)—Documentation of appraisal education*

Sections 36.11(c) and 36.12(c) contain the appraisal subjects that must be covered for initial certification as a residential appraiser and general appraiser, respectively. The regulations provide that an applicant for certification "shall demonstrate" that classroom hours covered the required subject matter. IRRC recommended that the Board amend the regulations to state the manner in which an applicant is expected to "demonstrate" compliance. The Board does not believe this amendment is necessary. The Board's application forms for initial residential and general appraiser certification set forth with specificity the manner in which an applicant must document education and experience qualifications required for certification.

*§§ 36.11(b)(5) and 36.12(b)(5)—Challenge examinations*

The proposed rulemaking made editorial amendments, recodified in §§ 36.11(b)(5) and 36.12(b)(5), that permit an applicant for initial certification as a residential appraiser and general appraiser, respectively, to gain credit towards the appraisal education requirement through successful completion of a "challenge examination" administered by a course provider instead of attending the course. The provisions apply only to credit awarded by a course provider prior to January 1, 1990, and the Board must be satisfied with the quality of the challenge examination that was administered by the course provider.

The HPLC commented that "challenge examination" is used as a "term of art" in the regulations and needs to be defined. The Board does not believe a definition is necessary. The AQB, which adopted the challenge examination standard on which the Board's regulations are based, did not consider it necessary to define the term. The Board believes the essential meaning of "challenge examination" is conveyed by the regulations' reference to the fact that the examination is administered to an individual who is excused from attending the course if he receives a passing grade.

*§§ 36.11(b)(2) and 36.12(b)(2)—Teaching credit*

Sections 36.11(b)(2) and 36.12(b)(2) provide that an applicant for initial certification as a residential appraiser and general appraiser, respectively, may count experience teaching appraisal courses towards the appraisal educa-

tion requirement. The proposed rulemaking deleted language permitting teaching experience to count towards the appraisal experience requirement for initial certification, but retained language stating that “[a] teacher requesting credit for the classroom hour requirement may not request credit for experience.” AQB criteria permit teachers of appraisal courses to apply their teaching experience towards the appraisal education requirement but not the appraisal experience requirement.

The ASC and IRRC recommended that §§ 36.11(b)(2) and 36.12(b)(2) be amended to delete the previously-quoted language to eliminate any potential confusion as to whether teaching experience may be counted towards the appraisal experience requirement. The final-form rulemaking incorporates this recommendation.

*§§ 36.11(d) and 36.12(d)—Postsecondary education*

The proposed rulemaking set forth postsecondary education requirements in §§ 36.11(d) and 36.12(d) for initial certification as a residential appraiser and general appraiser, respectively, effective January 1, 2008. Section 36.11(d) provides that an applicant for initial certification as a residential appraiser must either possess an associate’s degree or have completed 21 semester credits in prescribed college level-subjects, while § 36.12(d) provides that a candidate for certification as a general appraiser must either possess a bachelor’s degree or have completed 30 semester credits in prescribed college-level subjects.

The HPLC asked the Board for an explanation of the different postsecondary education requirements for residential and general appraisers and whether the Board was adding these requirements at the request of the ASC. The postsecondary education requirements for appraisers were developed by the AQB under its authority under the FIRREA to establish qualifications for appraisers in Federally-related transactions. Section 6(f) of the REACA requires the Board to impose the minimum education and experience requirements imposed under the FIRREA for residential and general appraisers. The ASC would consider the Board to be noncompliant with its obligations under the FIRREA if it failed to implement the AQB’s postsecondary education requirements for appraiser candidates. According to AQB literature, the decision to establish a postsecondary education requirement, in addition to the upgraded classroom hour requirement in appraisal subjects, was based on years of research and meetings with state and Federal regulators, appraisal organizations, academicians, users of appraisal services and the general public. It is likely that the AQB determined that initial certification as a general appraiser required a higher level of postsecondary education than initial certification as a residential appraiser because a general appraiser’s scope of authority allows for more complex appraisal assignments than a residential appraiser’s scope of authority.

*§§ 36.11(e), 36.12(e) and 36.13—Experience requirements*

The proposed rulemaking set forth amended appraisal experience requirements in §§ 36.11(e) and 36.12(e) for certification as a residential appraiser and general appraiser, respectively. Sections 36.11(e)(1) and 36.12(e)(1) provided that an applicant for certification must have acquired 3,000 hours and 2,500 hours of acceptable appraisal experience, respectively, “at least 50%” of which must be in the preparation of appraisal reports. IRRC suggested that, for purposes of clarity, the language be amended to state the minimum number of hours that must be spent in the preparation of appraisal reports rather than expressing the requirement as a percentage

of the total hours of experience acquired. The final-form rulemaking incorporates IRRC’s recommendation by providing that an applicant for residential appraiser certification must have acquired at least 1,250 hours in the preparation of appraisal reports, while an applicant for general appraiser certification must have acquired at least 1,500 hours in the preparation of appraisal reports.

The proposed rulemaking further provided in §§ 36.11(e)(2) and 36.12(e)(2) that all experience acquired after January 1, 1991, must comply with USPAP. The ASC recommended that the Board amend this language to provide that experience must be acquired after January 30, 1989, and must be USPAP-compliant. The Board notes that the ASC’s recommendation is based on new AQB experience criteria that take effect January 1, 2008. The current AQB criteria do not prescribe a time limit during which experience must be acquired and only requires experience acquired after January 1, 1991, to be USPAP-compliant. To ensure that the Board’s regulations conform to new AQB criteria, the final-form rulemaking includes language providing that effective January 1, 2008, all experience must be acquired after January 30, 1989, and must comply with USPAP. IRRC inquired whether the Board had considered the new experience standard when it drafted the proposed rulemaking. The Board inadvertently overlooked the matter during proposed rulemaking.

Section 36.13 (relating to experience options for preparation of appraisal reports) sets forth the standards by which the Board evaluates experience acquired in the preparation of appraisal reports. The PAR commented that the proposed rulemaking retained an incorrect citation to the Real Estate Licensing and Registration Act (63 P. S. §§ 455.101—455.902). The citation has been corrected in this final-form rulemaking.

*§ 36.51—Compliance with USPAP*

Section 36.51 (relating to compliance with USPAP) provides that an appraiser who violates a provision of USPAP “may be subject to disciplinary action” under the REACA. The HPLC recommended that the language be amended to provide that a violation of USPAP “shall” subject the violator to disciplinary action under the REACA. The final-form rulemaking incorporates this amendment.

*§ 36.54—Appraisal assistant*

Section 36.54 (relating to supervision of appraisal assistant) prescribes the duties of a residential or general appraiser who utilizes the services of an appraisal assistant.

Section 36.54(1) requires an appraiser to provide “written notification” to the Board when an appraisal assistant begins work for the appraiser. IRRC asked whether e-mail is an acceptable method of written notification. The Board believes e-mail is an acceptable means of notification under § 36.54(1).

Section 36.54(3)(i) provides that in the case of an assistant who is not already credentialed as a residential appraiser, an appraiser must accompany the assistant during the physical inspection of each property until the assistant has logged 300 hours of experience or until the appraiser deems the assistant competent under USPAP to perform the inspection unaccompanied, whichever period of time is greater. This subparagraph replaces the current inspection standard, which requires an appraiser to personally inspect 100% of the properties for which an assistant helped to prepare appraisal reports. The new inspection standard is similar to that prescribed by the

AQB for states whose appraiser statutes extend formal recognition to appraiser trainees; an appraiser must accompany a trainee on each property inspection until the appraiser deems the trainee competent under USPAP to perform the inspection unaccompanied.

IRRC questioned why an appraiser should not be required to accompany an assistant on each property inspection until the assistant becomes certified. If an assistant has the necessary proficiency to perform a physical inspection alone, nothing is gained—either in terms of the quality of the assistant's training or the credibility of the appraisal itself—by requiring an appraiser to accompany the assistant on the inspection. As the Board noted in the preamble of the proposed rulemaking, the current inspection standard forces appraisers to spend much of their time unproductively, making it economically difficult for them to extend apprenticeship opportunities to others who desire to enter the appraising profession.

The PAR and IRRC questioned how the Board determined that 300 hours was the absolute minimum amount of time that an assistant must work before being eligible to perform a property inspection unaccompanied. The figure represents a compromise between the Board's current inspection standard, which commits an appraiser to accompanying an assistant on inspections during the entire period that the assistant is acquiring his minimum 1,250 hours of experience preparing appraisal reports, and the AQB's inspection standard for appraiser trainees, which commits the appraiser to accompanying the assistant on inspections until the appraiser deems the assistant competent to go it alone, which could be after fewer than 300 hours of experience. The 300-hour minimum requirement serves to lessen the risk that an appraisal assistant will receive inadequate training as a result of a premature judgment by the supervising appraiser that the assistant is competent to perform inspections unaccompanied.

*§ 36.91—Reactivation of lapsed certification of appraiser*

Under § 36.91 (relating to reactivation of lapsed certification), an appraiser who seeks to reactivate a lapsed certification must, among other things, submit documentation of having completed 28 hours of continuing education, including the required 7-hour National USPAP Update Course and the required 2-hour course on the REACA and Board regulations and policies—as set forth in § 36.41 (relating to continuing education requirement)—within the 2-year period preceding the filing date of the reactivation application. The ASC recommended that the continuing education requirement for reactivating a lapsed certification be amended to conform to AQB criteria, adopted in September 2005, that require a reactivating appraiser to complete continuing education that would have been required if the appraiser had maintained a current certification, including the most recent edition of the 7-hour National USPAP Update Course. The final-form rulemaking includes the language from AQB criteria, with the additional clarification that a reactivating appraiser need complete only the most recent version of the required 2-hour course on the REACA and Board regulations and policies.

The proposed rulemaking further provided that an appraiser who performed activities requiring certification during the period when the certification was lapsed “may be subject to disciplinary action” under the appropriate provisions of the REACA. The HPLC recommended that the language be amended to provide that unauthorized practice by an appraiser with a lapsed certification “shall”

subject the violator to disciplinary action under the REACA. The final-form rulemaking incorporates this amendment.

*§ 36.261—Continuing education for CPE*

This final-form rulemaking amends the 28-hour continuing education requirement for CPEs in § 36.261 (relating to continuing education requirement) to increase the required component on USPAP from 4 hours to 7 hours, effective with the renewal of certification for the biennial renewal period that begins July 1, 2007. The proposed rulemaking mandated that renewing certificateholders must have completed the 7-hour National USPAP Update Course developed by the AQB or an equivalent 7-hour course approved by the AQB, which is the same coursework that residential appraisers, general appraisers and broker/appraisers must complete as a condition of biennial renewal of certification.

The Assessors Association of Pennsylvania (AAP) contacted the Board after the close of the public comment period to confirm its understanding that the rulemaking would permit CPEs to complete a 7-hour USPAP course that is taught by a non-AQB approved instructor using AQB instructional materials. Virtually all CPEs obtain their continuing education through the AAP, which does not currently have an AQB-approved USPAP instructor. The Board does not believe that the AQB will approve a USPAP course unless it has an AQB-approved instructor. The Board considers it sufficient that CPEs, who, unlike appraisers, are not statutorily subject to AQB requirements, complete their biennial USPAP training using AQB instructional materials. Accordingly, the final-form rulemaking amends USPAP requirement to provide that CPEs must complete either the 7-hour National USPAP Update Course or an equivalent 7-hour course approved by the Board.

*§ 36.271—Reactivation of lapsed certification of CPE*

Proposed § 36.271 (relating to reactivation of lapsed certification) provided, in part, that a CPE who performed activities requiring certification during the period when certification was lapsed “may be subject to disciplinary action” under the ACA. The HPLC recommended that the language be amended to provide that unauthorized practice by a CPE with a lapsed certification “shall” subject the violator to disciplinary action under the ACA. The final-form rulemaking incorporates this amendment.

*Fiscal Impact and Paperwork Requirements*

Under the final-form rulemaking, candidates for certification as residential and general appraisers will incur additional costs in meeting the increased education requirements for initial certification that are mandated by the AQB. These costs cannot be quantified. The final-form rulemaking, through its elimination of the requirement that residential and general appraisers must accompany appraisal assistants on all property inspections, will allow appraisers who employ appraisal assistants to use their time more efficiently. The savings to appraisers, and indirectly to users of appraisal services, cannot be quantified. The final-form rulemaking will have no direct fiscal impact on the general public or on the Commonwealth and its political subdivisions.

The final-form rulemaking will require residential and general appraisers to provide written notification to the Board when they employ appraisal assistants and to maintain appraisal assistant checklists for the appraisal reports that the assistants help to prepare. The final-form

rulemaking will not create additional paperwork for the general public or the Commonwealth and its political subdivisions.

*Effective Date*

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

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on May 17, 2006, the Board submitted a copy of the notice of proposed rulemaking, published at 36 Pa.B. 2530, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on May 23, 2007, the final-form rulemaking was approved by the HPLC. On June 6, 2007, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 7, 2007, and approved the final-form rulemaking.

*Additional Information*

Persons who require additional information about the final-form rulemaking should submit inquiries to Heidi Weirich, Administrator, State Board of Certified Real Estate Appraisers, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-4866, ST-APPRAISE@state.pa.us.

*Findings*

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered.

(3) The amendments to the final-form rulemaking do not enlarge the original purpose of the proposed rulemaking published at 36 Pa.B. 2530.

(4) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the REACA and the ACA.

*Order*

The Board, acting under the REACA and the ACA, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 36, are amended by adding § 36.54, deleting § 36.225 and amending §§ 36.1—36.3, 36.11—36.13, 36.41, 36.43, 36.51, 36.52, 36.91, 36.224, 36.261, 36.263, 36.271 and 36.281 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Board shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as required by law.

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

(d) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

ROBERT F. MCRAE,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 37 Pa.B. 2909 (June 23, 2007).)*

**Fiscal Note:** Fiscal Note 16A-7014 remains valid for the final adoption of the subject regulations.

**ANNEX A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 36. STATE BOARD OF CERTIFIED REAL ESTATE APPRAISERS**

**Subchapter A. CERTIFIED REAL ESTATE APPRAISERS**

**GENERAL PROVISIONS**

**§ 36.1. Definitions.**

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

*AQB*—The Appraiser Qualifications Board of the Appraisal Foundation.

*Act*—The Real Estate Appraisers Certification Act (63 P. S. §§ 457.1—457.19).

*Ad valorem tax appraisal*—Valuation for tax purposes involving the appraisal of real estate, its analysis, opinions and conclusions regarding taxation.

*Applicant*—A natural person.

*Appraisal*—A written analysis, opinion or conclusion relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real property, for or in expectation of compensation.

*Appraisal review*—An analysis of a completed appraisal report to determine if it conforms to specific requirements and guidelines and to insure that the report is consistent and mathematically correct.

*Board*—The State Board of Certified Real Estate Appraisers of the Commonwealth.

*Certified broker/appraiser*—A person who holds a certificate issued under authority of section 6(a)(3) of the act (63 P. S. § 457.6(a)(3)) and who is authorized to perform appraisals of all types of real property in non-Federally-related transactions.

*Certified general real estate appraiser*—A person who holds a certificate issued under authority of section 6(a)(2) and (e) of the act and § 36.12 (relating to qualifications for certification as general real estate appraiser) and who is authorized to perform appraisals of all types of real property in all transactions, whether Federally-related or non-Federally-related.

*Certified real estate appraiser*—A certified broker/appraiser, certified residential real estate appraiser or certified general real estate appraiser.

*Certified residential real estate appraiser*—A person who holds a certificate issued under authority of section 6(a)(1) and (d) of the act and § 36.11 (relating to qualifi-



cations for certification as residential real estate appraiser) and who is authorized to perform appraisals of residential properties of one-to-four dwelling units in all transactions, whether Federally-related or non-Federally-related.

*Distance education*—An educational process based on the geographical separation of the learner and instructor, which provides interaction between the learner and instructor and includes testing. Examples include CD or DVD ROM, on-line learning, correspondence courses, video conferencing, and video and remote television courses.

*FIRREA*—The Financial Institutions Reform, Recovery and Enforcement Act of 1989, the act of August 9, 1989 (Pub. L. 101-73, 103 Stat. 183).

*Feasibility analysis*—A study of the cost-benefit relationship of an economic endeavor.

*Federally-related transaction*—A real estate-related financial transaction which a Federal financial institution regulatory agency or the Resolution Trust Corporation engages in, contracts for or regulates, and which requires the services of an appraiser.

*Highest and best use analysis*—A study which represents the reasonable and probable use that results in the highest present value of the land or improved property after considering all legally permissible, physically possible and economically feasible uses.

*IDECC*—International Distance Education Certification Center.

*Real estate counseling*—Providing, for a fee, disinterested and unbiased advice, professional guidance and judgment in the broad field of real estate, involving all segments of the business, including marketing, leasing, managing, planning, financing, appraising, providing testimony and other similar services. Real estate counseling is a specialty area in which the counselor clearly identifies the real estate problem to be solved, determines the most satisfactory solutions and, where appropriate, follows through on the implementation.

*Real estate-related financial transaction*—A transaction involving the following:

- (i) Sale, lease, purchase, investment in or exchange of real property, including interests in property or the financing thereof.
- (ii) Refinancing of real property or interests in real property.
- (iii) Use of real property or interests in property as security for a loan or investment, including mortgage-backed securities.

*Review appraiser*—A person who performs an appraisal review.

*USPAP*—The Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation.

**§ 36.2. Application process.**

(a) *Application form.* A person interested in becoming a certified residential real estate appraiser or a certified general real estate appraiser shall complete and file with the Board a notarized application form and an application fee. Application forms may be obtained by visiting the Board's website at [www.dos.state.pa.us/real](http://www.dos.state.pa.us/real) or by writing, telephoning, or e-mailing the Board at Post Office Box 2649, Harrisburg, PA 17105-2649, (717) 783-4866, or [ST-APPRAISE@state.pa.us](mailto:ST-APPRAISE@state.pa.us), respectively.

(b) *Application fee.* The application fee for certification as a residential or general real estate appraiser is set forth in § 36.6 (relating to fees). Application fees are nonrefundable. Payments must be in the form of a personal check or money order made payable to the "Commonwealth of Pennsylvania."

(c) *Approved applications.* Subject to the provisions of subsection (e), an approved application will be valid for 1 year from the date of approval. If an applicant does not pass the certification examination within this 1-year period, the applicant's application will be considered to have been withdrawn. If the applicant wishes to take the examination after 1 year from the date of approval, a new application, along with the required fee, shall be submitted to the Board.

(d) *Disapproved applications.* Subject to the provisions of subsection (e), an applicant whose application has been disapproved by the Board will be notified in writing of the reasons for the disapproval, and will have 1 year from the date of disapproval to correct the deficiencies or to file a request for reconsideration. A request for reconsideration must give the reason for the applicant's request, must be accompanied by documentary materials not previously submitted which the applicant wishes the Board to consider and may include a request for an informal interview with the Board. If a request for reconsideration is denied or, subject to the provisions of subsection (e), an applicant is unable to correct the deficiencies which resulted in the disapproval of the application within 1 year from the date of disapproval, a new application, along with the required fee, shall be submitted to the Board.

(e) *Compliance with new requirements.* Except as otherwise provided in §§ 36.11 and 36.12 (relating to qualifications for certification as residential real estate appraiser; and qualifications for certification as general real estate appraiser), an applicant shall comply with any increased education or experience requirements that take effect between the applicant's filing of an initial application and the applicant's passing the certification examination.

**§ 36.3. Examinations.**

(a) The examination required for certification as a residential real estate appraiser is the AQB-endorsed Uniform State Certified Residential Real Property Appraiser Examination or its equivalent. The examination required for certification as a general real estate appraiser is the AQB-endorsed Uniform State Certified General Real Property Appraiser Examination or its equivalent. The certification examinations are administered by a professional testing organization under contract with the Board at times and places established by the professional testing organization.

(b) Interested persons may obtain information about the certification examinations from the professional testing organization. Contact information for the professional testing organization appears on the Board's website at [www.dos.state.pa.us/real](http://www.dos.state.pa.us/real).

**QUALIFICATIONS FOR CERTIFICATION**

**§ 36.11. Qualifications for certification as residential real estate appraiser.**

(a) *Overview.* An applicant for certification as a residential real estate appraiser shall be of good moral character, meet the following education and experience requirements prior to examination, and pass an examination for certification as a residential real estate appraiser. Neither a real estate salesperson's license nor a real

estate broker's license issued under the Real Estate Licensing and Registration Act (63 P.S. § 455.101—455.902) is a prerequisite to certification as a residential real estate appraiser.

(b) *Appraisal classroom hours.* An applicant shall submit evidence to the Board of having completed 120 classroom hours of courses in subjects related to real estate appraisal, including the 15-hour National USPAP Course, together with coverage of the topics listed in subsection (c)(1). Effective January 1, 2008, an applicant shall submit evidence to the Board of having completed 200 classroom hours in the appraisal curriculum set forth in subsection (c)(2), except that the new requirement does not apply to an applicant who has satisfied the existing education requirement before January 1, 2008.

(1) *Length of classroom hour requirement.* Credit toward the classroom hour requirement will only be granted when the length of the course is at least 15 hours, and the applicant successfully completes an examination pertinent to the course. A classroom hour is defined as 50 minutes out of each 60 minute segment.

(2) *Teaching credit.* Credit toward the classroom hour requirement may be awarded to teachers of appraisal courses for actual classroom time, but credit will not be given for course repetition.

(3) *Providers of appraisal courses.* Credit for the classroom hour requirement may be obtained from accredited colleges or universities and community or junior colleges. Subject to Board approval under § 36.31 (relating to provider registration/appraisal courses), credit for the classroom hour requirement may also be obtained from real estate appraisal or real estate related organizations, State or Federal agencies or commissions, proprietary schools and other providers.

(4) *Distance education.* A distance education course is acceptable to meet the classroom hour requirement if the course is approved by the Board and meets the following conditions:

(i) The course is presented by one of the following:

(A) An accredited (Commission on Colleges or a regional accreditation association) college or university that offers distance education programs in other disciplines.

(B) A course provider that has received approval for course design and delivery mechanism from the IDECC and approval for course content from the Board or from the AQB through its Course Approval Program.

(ii) The applicant successfully completes a written examination proctored by an official approved by the college, university or other course provider.

(iii) The length and content of the course meet the requirements of paragraph (1) and subsection (c), respectively.

(5) *Credit for challenge examination.* The Board may accept toward the classroom hour requirement a course for which the applicant obtained credit from the course provider by challenge examination without attending the course, if the course provider granted credit prior to July 1, 1990, and the Board is satisfied with the quality of the challenge examination that was administered by the course provider.

(c) *Content of appraisal education.* The content of an applicant's appraisal education must be as follows:

(1) An applicant who is subject to the 120-classroom hour requirement in subsection (b) shall demonstrate that the classroom hours included coverage of the following

topics, with particular emphasis on the appraisal of one-to-four unit residential properties:

\* \* \* \* \*

(2) An applicant who is subject to the 200-classroom hour requirement in subsection (b) shall demonstrate that the classroom hours satisfy the following curriculum requirements:

(i) Basic appraisal principles (30 hours).

(A) Real property concepts and characteristics.

(I) Basic real property concepts.

(II) Real property characteristics.

(III) Legal description.

(B) Legal considerations.

(I) Forms of ownership.

(II) Public and private controls.

(III) Real estate contracts.

(IV) Leases.

(C) Influences on real estate.

(I) Governmental.

(II) Economic.

(III) Social.

(IV) Environmental, geographic and physical.

(D) Types of value.

(I) Market value.

(II) Other value types.

(E) Economic principles.

(I) Classical economic principles.

(II) Application and illustrations of the economic principles.

(F) Overview of real estate markets and analysis.

(I) Market fundamentals, characteristics and definitions.

(II) Supply analysis.

(III) Demand analysis.

(IV) Use of market analysis.

(G) Ethics and how they apply in appraisal theory and practice.

(ii) Basic appraisal procedures (30 hours).

(A) Overview of approaches to value.

(B) Valuation procedure.

(I) Defining the problem.

(II) Collecting and selecting the data.

(III) Analyzing.

(IV) Reconciling and final value opinion.

(V) Communicating the appraisal.

(C) Property description.

(I) Geographic characteristics of the land/site.

(II) Geologic characteristics of the land/site.

(III) Location and neighborhood characteristics.

(IV) Land/site considerations for highest and best use.

(V) Improvements—architectural styles and types of construction.

- (D) Residential applications.
- (iii) National USPAP Course or equivalent (15 hours).
- (A) Preamble and ethics rules.
- (B) Standard 1.
- (C) Standard 2.
- (D) Standards 3 to 10.
- (E) Statements and advisory opinions.
- (iv) Residential market analysis and highest and best use (15 hours).
- (A) Residential markets and analysis.
- (I) Market fundamentals, characteristics and definitions.
- (II) Supply analysis.
- (III) Demand analysis.
- (IV) Use of market analysis.
- (B) Highest and best use.
- (I) Test constraints.
- (II) Application of highest and best use.
- (III) Special considerations.
- (IV) Market analysis.
- (V) Case studies.
- (v) Residential appraiser site valuation and cost approach (15 hours).
- (A) Site valuation.
- (I) Methods.
- (II) Case studies.
- (B) Cost approach.
- (I) Concepts and definitions.
- (II) Replacement/reproduction cost new.
- (III) Accrued depreciation.
- (IV) Methods of estimating accrued depreciation.
- (V) Case studies.
- (vi) Residential sales comparison and income approaches (30 hours).
- (A) Valuation principles and procedures—sales comparison approach.
- (B) Valuation principles and procedures—income approach.
- (C) Finance and cash equivalency.
- (D) Financial calculator introduction.
- (E) Identification, derivation and measurement of adjustments.
- (F) Gross rent multipliers.
- (G) Partial interests.
- (H) Reconciliation.
- (I) Case studies and applications.
- (vii) Residential report writing and case studies (15 hours).
- (A) Writing and reasoning skills.
- (B) Common writing problems.
- (C) Form reports.
- (D) Report options and USPAP compliance.

- (E) Case studies.
- (viii) Statistics, modeling and finance (15 hours).
- (A) Statistics.
- (B) Valuation models (AVMs and mass appraisal).
- (C) Real estate finance.
- (ix) Advanced residential applications and case studies (15 hours).
- (A) Complex property, ownership and market conditions.
- (B) Deriving and supporting adjustments.
- (C) Residential market analysis.
- (D) Advanced case studies.
- (x) Appraisal subject matter electives (20 hours).
- (d) *Postsecondary education.*
- (1) Effective January 1, 2008, an applicant shall submit evidence to the Board of having satisfied one of the following requirements:
  - (i) Possession of an associate's degree, or higher, from an accredited college or university.
  - (ii) Completion of 21 semester credit hours in the following college-level subjects at an accredited college or university:
    - (A) English composition.
    - (B) Principles of economics (micro or macro).
    - (C) Finance.
    - (D) Algebra, geometry or higher mathematics.
    - (E) Statistics.
    - (F) Introduction to computers-word processing/spreadsheets.
    - (G) Business or real estate law.
- (2) This subsection does not apply to an applicant who completed 120 classroom hours of qualifying appraisal education under subsection (b) before January 1, 2008.
  - (e) *Experience.*
  - (1) In addition to meeting the education requirements, an applicant shall submit evidence to the Board of having acquired 2,500 hours of acceptable appraisal experience during a period of at least 24 months. At least 1,250 hours of the experience acquired by an applicant must be in the actual preparation of real estate appraisal reports, which includes physical inspections of the interior and exterior of the subject properties, in accordance with § 36.13 (relating to experience options regarding preparation of appraisal reports). Hours may be treated as cumulative to achieve the necessary 2,500 hours of appraisal experience. Cumulative is defined to mean that experience may be acquired over any time period in excess of 24 months. There is no minimum number of hours which must be acquired in any 12 months. The following will serve as an example:
 

Year 1	400 Hours
Year 2	800 Hours
Year 3	200 Hours
Year 4	500 Hours
Year 5	600 Hours
Total	2,500 Hours
  - (2) Effective January 1, 2008, experience must be acquired after January 30, 1989, and must comply with USPAP. Experience acquired after August 2, 1993, will

not be accepted unless the applicant has first completed 45 classroom hours of appraisal education, including 15 hours on USPAP. Acceptable categories of appraisal experience include:

- (i) Fee and staff appraisals.
- (ii) Ad valorem tax appraisals, if the appraiser can demonstrate that the appraiser used techniques to value properties similar to those used by other appraisers and that the appraiser effectively used the appraisal process.
- (iii) Review appraisals.
- (iv) Appraisal analysis (synonymous with an appraisal).
- (v) Real estate counseling, if the counselor can satisfactorily demonstrate that:
  - (A) The client clearly asked for counseling services.
  - (B) The client was informed that the counselor's time would be devoted to counseling services, which are separate from other real estate functions such as appraising, sales management and mortgage lending.
  - (C) A file memorandum was prepared on each assignment indicating the nature of the assignment, recommendations and disposition.
  - (D) Compensation for the counseling services was separate from other real estate services rendered.
- (vi) Highest and best use analysis.
- (vii) Feasibility analysis/study.
- (viii) Real estate related experience such as that of an officer of a lending institution, if the experience consists of the actual performance or professional review of real estate appraisals.
- (ix) Evaluations under FIRREA in accordance with requirements of Federal financial institution regulatory agencies.
- (x) Case studies or practicum courses that are approved by the AQB Course Approval Program.

**§ 36.12. Qualifications for certification as general real estate appraiser.**

(a) *Overview.* An applicant for certification as a general real estate appraiser shall be of good moral character, meet the following education and experience requirements prior to examination, and pass an examination for certification as a general real estate appraiser. Neither a real estate salesperson's license nor a real estate broker's license issued under the Real Estate Licensing and Registration Act (63 P. S. §§ 455.101—455.902) is a prerequisite to certification as a general real estate appraiser.

(b) *Appraisal classroom hours.* An applicant shall submit evidence to the Board of having completed 180 classroom hours of courses in subjects related to real estate appraisal, including the 15-hour National USPAP Course, together with coverage of the topics listed in subsection (c)(1). Effective January 1, 2008, an applicant shall submit evidence to the Board of having completed 300 classroom hours in the appraisal curriculum set forth in subsection (c)(2), except that the new requirement does not apply to an applicant who has satisfied the existing education requirement before January 1, 2008.

(1) *Length of classroom hour requirement.* Credit toward the classroom hour requirement will only be granted when the length of the course is at least 15 hours, and the applicant successfully completes an exami-

nation pertinent to the course. A classroom hour is defined as 50 minutes out of each 60 minute segment.

(2) *Teaching credit.* Credit toward the classroom hour requirement may be awarded to teachers of appraisal courses for actual classroom time, but credit will not be given for course repetition.

(3) *Providers of appraisal courses.* Credit for the classroom hour requirement may be obtained from accredited colleges or universities and community or junior colleges. Subject to Board approval under § 36.31 (relating to provider registration/appraisal courses), credit for the classroom hour requirement may also be obtained from real estate appraisal or real estate related organizations, State or Federal agencies or commissions, proprietary schools and other providers.

(4) *Distance education.* A distance education course is acceptable to meet the classroom hour requirement if the course is approved by the Board and meets the following conditions:

(i) The course is presented by one of the following:

(A) An accredited (Commission on Colleges or a regional accreditation association) college or university that offers distance education programs in other disciplines.

(B) A course provider that has received approval for course design and delivery mechanism from the IDECC and approval for course content from the Board or from the AQB through its Course Approval Program.

(ii) The applicant successfully completes a written examination proctored by an official approved by the college, university or other course provider.

(iii) The length and content of the course meet the requirements of paragraph (1) and subsection (c), respectively.

(5) *Credit for challenge examination.* The Board may accept toward the classroom hour requirement a course for which the applicant obtained credit from the course provider by challenge examination without attending the course, if the course provider granted credit prior to July 1, 1990, and the Board is satisfied with the quality of the challenge examination that was administered by the course provider.

(c) *Content of appraisal education.* The content of an applicant's appraisal education must be as follows:

(1) An applicant who is subject to the 180-classroom hour requirement in subsection (b) shall demonstrate that the classroom hours included coverage of the following topics, with particular emphasis on the appraisal of nonresidential properties. Residential is defined as one to four residential units.

\* \* \* \* \*

(2) An applicant who is subject to the 300-hour classroom requirement in subsection (b) shall demonstrate that the classroom hours satisfy the following curriculum requirements:

(i) Basic appraisal principles (30 hours).

(A) Real property concepts and characteristics.

(I) Basic real property concepts.

(II) Real property characteristics.

(III) Legal description.

(B) Legal considerations.

(I) Forms of ownership.

- (II) Public and private controls.
- (III) Real estate contracts.
- (IV) Leases.
- (C) Influences on real estate.
  - (I) Governmental.
  - (II) Economic.
  - (III) Social.
  - (IV) Environmental, geographic and physical.
- (D) Types of value.
  - (I) Market value.
  - (II) Other value types.
- (E) Economic principles.
  - (I) Classical economic principles.
  - (II) Application and illustrations of the economic principles.
    - (F) Overview of real estate markets and analysis.
    - (I) Market fundamentals, characteristics and definitions.
    - (II) Supply analysis.
    - (III) Demand analysis.
    - (IV) Use of market analysis.
    - (G) Ethics and how they apply in appraisal theory and practice.
      - (ii) Basic appraisal procedures (30 hours).
        - (A) Overview of approaches to value.
        - (B) Valuation procedure.
          - (I) Defining the problem.
          - (II) Collecting and selecting the data.
          - (III) Analyzing.
          - (IV) Reconciling and final value opinion.
          - (V) Communicating the appraisal.
        - (C) Property description.
          - (I) Geographic characteristics of the land/site.
          - (II) Geologic characteristics of the land/site.
          - (III) Location and neighborhood characteristics.
          - (IV) Land/site considerations for highest and best use.
          - (V) Improvements—architectural styles and types of construction.
            - (D) Residential applications.
        - (iii) National USPAP Course or equivalent (15 hours).
          - (A) Preamble and ethics rules.
          - (B) Standard 1.
          - (C) Standard 2.
          - (D) Standards 3 to 10.
          - (E) Statements and advisory opinions.
        - (iv) General appraiser market analysis and highest and best use (30 hours).
          - (A) Real estate markets and analysis.
            - (I) Market fundamentals, characteristics and definitions.
            - (II) Supply analysis.
          - (III) Demand analysis.
          - (IV) Use of market analysis.
          - (B) Highest and best use.
            - (I) Test constraints.
            - (II) Application of highest and best use.
            - (III) Special considerations.
            - (IV) Market analysis.
            - (V) Case studies.
          - (v) General appraiser site valuation and cost approach (30 hours).
            - (A) Site valuation.
              - (I) Methods.
              - (II) Case studies.
            - (B) Cost approach.
              - (I) Concepts and definitions.
              - (II) Replacement/reproduction cost new.
              - (III) Accrued depreciation.
              - (IV) Methods of estimating accrued depreciation.
              - (V) Case studies.
          - (vi) General appraiser sales comparison approach (30 hours).
            - (A) Value principles.
            - (B) Procedures.
            - (C) Identification and measurement of adjustments.
            - (D) Reconciliation.
            - (E) Case studies.
          - (vii) General appraiser income approach (60 hours).
            - (A) Overview.
            - (B) Compound interest.
            - (C) Lease analysis.
            - (D) Income analysis.
            - (E) Vacancy and collection loss.
            - (F) Estimating operating expenses and reserves.
            - (G) Reconstructed income and expense statement.
            - (H) Stabilized net operating income estimate.
            - (I) Direct capitalization.
            - (J) Discounted cash flow.
            - (K) Yield capitalization.
            - (L) Partial interests.
            - (M) Case studies.
          - (viii) General appraiser report writing and case studies (30 hours).
            - (A) Writing and reasoning skills.
            - (B) Common writing problems.
            - (C) Report options and USPAP compliance.
            - (D) Case studies.
          - (ix) Statistics, modeling and finance (15 hours).
            - (A) Statistics.
            - (B) Valuation models (AVMs and mass appraisal).
            - (C) Real estate finance.

- (x) Appraisal subject matter electives (30 hours).
- (d) *Postsecondary education.*
- (1) Effective January 1, 2008, an applicant shall submit evidence to the Board of having satisfied one of the following requirements:
  - (i) Possession of a bachelor's degree, or higher, from an accredited college or university.
  - (ii) Completion of 30 semester credit hours in the following college-level subjects at an accredited college or university:
    - (A) English composition.
    - (B) Macroeconomics.
    - (C) Microeconomics.
    - (D) Finance.
    - (E) Algebra, geometry or higher mathematics.
    - (F) Statistics.
    - (G) Introduction to computers—word processing/spreadsheets.
    - (H) Business or real estate law.
    - (I) Two elective courses in accounting, geography, ag-economics, business management or real estate.

(2) This subsection does not apply to an applicant who completed 180 classroom hours of qualifying appraisal education under subsection (b) before January 1, 2008.

(e) *Experience.*

(1) In addition to meeting the education requirements, an applicant shall submit evidence to the Board of having acquired 3,000 hours of acceptable appraisal experience, including 1,500 hours in nonresidential work, during a period of no less than 30 months. At least 1,500 hours of the experience acquired by an applicant shall be in the actual preparation of real estate appraisal reports, which includes physical inspections of the interior and exterior of the subject properties, in accordance with § 36.13 (relating to experience options regarding preparation of appraisal reports). Hours may be treated as cumulative to achieve the necessary 3,000 hours of appraisal experience. Cumulative is defined to mean that experience may be acquired over any time period in excess of 30 months. There is no minimum number of hours which must be acquired in any 1 year. The following will serve as an example:

Year 1	1,000 Hours
Year 2	800 Hours
Year 3	100 Hours
Year 4	1,000 Hours
Year 5	100 Hours
Total	3,000 Hours

(2) Effective January 1, 2008, experience must be acquired after January 30, 1989, and must comply with USPAP. Experience acquired after August 2, 1993, will not be accepted unless the applicant has first completed 45 classroom hours of appraisal education, including 15 hours on USPAP. Acceptable categories of appraisal experience include:

- (i) Fee and staff appraisals.
- (ii) Ad valorem tax appraisals, if the appraiser can demonstrate that the appraiser used techniques to value properties similar to those used by other appraisers and that the appraiser effectively used the appraisal process.
- (iii) Review appraisals.

(iv) Appraisal analysis (synonymous with an appraisal).

(v) Real estate counseling, if the counselor can satisfactorily demonstrate that:

(A) The client clearly asked for counseling services.

(B) The client was informed that the counselor's time would be devoted to counseling services, which are separate from other real estate functions such as appraising, sales management and mortgage lending.

(C) A file memorandum was prepared on each assignment, indicating the nature of the assignment, recommendations and disposition.

(D) Compensation for the counseling services was separate from other real estate services rendered.

(vi) Highest and best use analysis.

(vii) Feasibility analysis/study.

(viii) Real estate experience such as that of an officer of a lending institution, if the experience consists of the actual performance or professional review of real estate appraisals.

(ix) Evaluations under FIRREA in accordance with requirements of Federal financial institution regulatory agencies.

(x) Case studies or practicum courses that are approved by the AQB Course Approval Program.

**§ 36.13. Experience options for preparation of appraisal reports.**

(a) An applicant for certification as a residential real estate appraiser or a general real estate appraiser under §§ 36.11 and 36.12 (relating to qualifications for certification as residential real estate appraiser; and qualifications for certification as general real estate appraiser) shall have acquired experience in the preparation of appraisal reports in one or more of the following:

(1) Prior to September 3, 1998:

(i) As a licensed real estate broker under the Real Estate Licensing and Registration Act (63 P. S. §§ 455.101—455.902) and Chapter 35 (relating to State Real Estate Commission).

(ii) As an elected officer, director or employee of a banking institution, savings institution, savings bank, credit union or trust company operating under applicable Federal or State laws, when acting on behalf of the institution in connection with a loan transaction.

(iii) As a certified broker/appraiser.

(iv) As an assistant to a certified residential real estate appraiser or certified general real estate appraiser, provided the assistant satisfies the requirements of subsection (b).

(2) On or after September 3, 1998:

(i) As a certified broker/appraiser.

(ii) As an assistant to a certified residential real estate appraiser or certified general real estate appraiser, provided the assistant satisfies the requirements of subsection (b).

(b) An assistant to a certified general appraiser or certified residential appraiser shall observe the following requirements when preparing an appraisal report:

(1) The assistant shall perform an inspection of the interior and exterior of the property.

(2) The assistant may not arrive at an independent determination of value.

(3) The assistant shall sign the appraisal report as "assistant to the certified real estate appraiser" or be referenced in the certification section of the appraisal report, or in an addendum to the appraisal report, as having provided significant professional assistance.

**CONTINUING EDUCATION**

**§ 36.41. Continuing education requirement.**

(a) Continuing education for certified real estate appraisers is necessary to ensure that they maintain and increase their skill, knowledge and competency in real estate appraising. Except as provided in subsection (b), a certified real estate appraiser shall complete 28 classroom hours of continuing education—including the 7-hour National USPAP Update Course, or an equivalent 7-hour course approved by the AQB, and at least 2 hours on the act, this chapter and the policies of the Board—during each biennial renewal period as a condition of renewal of certification for the next biennial renewal period.

(b) A certified general real estate appraiser or residential real estate appraiser whose initial certification becomes effective between January 1 and June 30 of a biennial renewal year will not be required to furnish proof of continuing education as a condition of renewal of certification in that biennial renewal year.

**§ 36.43. Distance education.**

A distance education course is acceptable for continuing education credit if it is approved by the Board and meets the following conditions:

- (1) The course is presented by one of the following:
  - (i) A course provider that presents the course to an organized group in an instructional setting with a person qualified and available to answer questions, provide information and monitor attendance.
  - (ii) An accredited (Commission on Colleges or a regional accreditation association) college or university that offers distance education programs in other disciplines.
  - (iii) A course provider that has received approval for course design and delivery mechanism from the IDECC and approval for course content from the Board or from the AQB through its Course Approval Program.
- (2) With regard to a course presented under paragraph (1)(ii) or (iii), the certified real estate appraiser either successfully completes a written examination proctored by an official approved by the college, university or other course provider or successfully completes the course mechanisms required for course accreditation that evidence the learner's mastery and fluency of the course content.
- (3) The content and length of the course meet the requirements of § 36.42 (relating to continuing education subject matter).

**STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE**

**§ 36.51. Compliance with USPAP.**

A certified real estate appraiser shall perform an appraisal in accordance with USPAP. A certified real estate appraiser who violates one or more provisions of USPAP shall be subject to disciplinary action under the act. A certified real estate appraiser can obtain a current edition of USPAP by writing, telephoning or e-mailing the Appraisal Foundation at 1029 Vermont Avenue, N.W.,

Suite 900, Washington D.C. 20005-3517, (202) 347-7722, or info@appraisalfoundation.org, respectively.

**§ 36.52. Use of certificate number and title.**

A certified real estate appraiser shall place his name, signature and certificate number adjacent to or immediately below the title "Pennsylvania certified general real estate appraiser," "Pennsylvania certified residential real estate appraiser" or "Pennsylvania certified broker/appraiser," as appropriate, on each written appraisal report and each written appraisal agreement. Professional designations may be included adjacent to the signature, if applicable. The following will serve as an example:

/s/ \_\_\_\_\_  
 John Doe, (Professional designation, if applicable)  
 Pennsylvania Certified Residential Real Estate Appraiser  
 Certification number RL-999999-L

**§ 36.54. Supervision of appraisal assistant.**

A certified residential real estate appraiser or certified general real estate appraiser who utilizes an appraisal assistant shall:

- (1) Provide written notification to the Board of the name and address of the assistant when the assistant begins work for the appraiser.
- (2) Directly supervise and control the assistant's work, assuming total responsibility for the contents of the appraisal report, including all value conclusions.
- (3) Accompany the assistant during the physical inspection of the property as follows:
  - (i) In the case of an assistant who is not a certified residential real estate appraiser, accompany the assistant during the physical inspection of the property until the assistant has logged 300 hours of experience or until the supervising appraiser determines the assistant is competent under USPAP to perform the physical inspection unaccompanied, whichever is the longer period.
  - (ii) In the case of an assistant who is a certified residential real estate appraiser seeking to obtain qualifying experience for certification as a general real estate appraiser, accompany the assistant during the physical inspection of the property until the supervising appraiser determines the assistant is competent under USPAP to perform the physical inspection unaccompanied.
- (4) Sign the appraisal report as a certified real estate appraiser under § 36.52 (relating to use of certificate number and title) and either have the assistant sign the appraisal report as assistant to the certified real estate appraiser or identify the assistant in the certification section of the appraisal report, or in addendum to the appraisal report, as having provided significant professional assistance.
- (5) Sign a Board-approved appraisal assistant checklist that has been completed by the assistant and that relates to the assistant's work on the appraisal report.
- (6) Provide a current or former assistant who is applying for appraiser certification with copies of designated appraisal reports and appraisal assistant checklists requested by the Board to verify the assistant's experience.

**MISCELLANEOUS PROVISIONS**

**§ 36.91. Reactivation of lapsed certification.**

A certified real estate appraiser whose certification has lapsed for failure to biennially renew certification may apply to the Board for reactivation of certification by

paying the renewal fee required under § 36.6 (relating to fees) and providing documentation of having completed the continuing education hours that would have been required under § 36.41 (relating to continuing education requirement) if the certified real estate appraiser had maintained current certification, except that only the most recent versions of the 7-hour National USPAP update course and the 2-hour course on the act, this chapter and Board policies must be completed. A certified real estate appraiser who performed an appraisal, or held himself out as an appraiser, during a period when his certification was lapsed shall be subject to disciplinary action by the Board under section 3 of the act (63 P. S. § 457.3) in addition to being required to pay late renewal fees under section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P. S. § 1401-225).

### **Subchapter C. CERTIFIED PENNSYLVANIA EVALUATORS**

#### **QUALIFICATIONS FOR CERTIFICATION**

##### **§ 36.224. Distance education courses.**

A distance education course is acceptable to meet the classroom hour requirement if the course is approved by the Board and meets the following conditions:

(1) The course is presented by one of the following:

(i) An accredited (Commission on Colleges or a regional accreditation association) college or university that offers distance education programs in other disciplines.

(ii) A course provider that has received approval for course design and delivery mechanism from the IDECC and approval for course content from the Board or from the AQB through its Course Approval Program.

(2) The applicant successfully completes a written examination proctored by an official approved by the college, university or other course provider.

(3) The content and length of the course meet the requirements of § 36.222 (relating to required courses of study).

##### **§ 36.225. (Reserved).**

#### **CONTINUING EDUCATION**

##### **§ 36.261. Continuing education requirement.**

(a) Except as provided in subsection (b), a certified Pennsylvania evaluator shall complete 28 classroom hours of continuing education—including at least 4 hours on USPAP and at least 2 hours on the act, this chapter and the policies of the Board—during each biennial renewal period as a condition of renewal of certification for the next biennial renewal period. Effective with renewal of certification for the 2007–2009 biennial renewal period, the USPAP requirement shall be the 7-hour National USPAP Update Course or an equivalent 7-hour course approved by the Board.

(b) A certified Pennsylvania evaluator whose initial certification becomes effective between January 1 and June 30 of a biennial renewal year will not be required to furnish proof of continuing education as a condition of biennial renewal of certification in that biennial renewal year.

##### **§ 36.263. Distance education.**

A distance education course is acceptable for continuing education credit if it is approved by the Board and meets the following conditions:

(1) The course is presented by one of the following:

(i) A course provider that presents the course to an organized group in an instructional setting with a person qualified and available to answer questions, provide information and monitor attendance.

(ii) An accredited (Commission on Colleges or a regional accreditation association) college or university that offers distance education programs in other disciplines.

(iii) A course provider that has received approval for course design and delivery mechanism from the IDECC and approval for course content from the Board or from the AQB through its Course Approval Program.

(2) With regard to a course presented under paragraph (1)(ii) or (iii), the certified Pennsylvania evaluator either successfully completes a written examination proctored by an official approved by the college, university or other course provider or successfully completes the course mechanisms required for course accreditation that evidence the learner's mastery and fluency of the course content.

(3) The content and length of the course meets the requirements of § 36.262 (relating to continuing education subject matter).

#### **REACTIVATION OF CERTIFICATION**

##### **§ 36.271. Reactivation of lapsed certification.**

A certified Pennsylvania evaluator whose certification has lapsed for failure to biennially renew certification may apply to the Board for reactivation of certification by paying the renewal fee required under § 36.6 (relating to fees) and providing documentation of having completed 28 hours of continuing education as required under § 36.261 (relating to continuing education requirement) within the 2-year period immediately preceding the date of filing of the reactivation application. A certified Pennsylvania evaluator who performed a valuation of real property for ad valorem tax purposes, or held himself out as a certified Pennsylvania evaluator, during a period when his certification was lapsed shall be subject to disciplinary action by the Board under the act in addition to being required to pay late renewal fees under section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P. S. § 1401-225).

#### **STANDARDS OF PROFESSIONAL CONDUCT**

##### **§ 36.281. Standards of Professional Conduct.**

###### *Preamble*

Certified Pennsylvania evaluators shall comply with the act and this subchapter and conform to the standards of professional conduct in this section. Certified Pennsylvania evaluators who fail to adhere to these standards will be subject to professional discipline under section 7(a)(6) of the act (63 P. S. § 458.7(a)(6)).

###### *Standard 1. General duties.*

Certified Pennsylvania evaluators shall perform their duties in accordance with the general and specific county assessment laws and generally accepted assessment standards. Certified Pennsylvania evaluators shall perform all assessments in accordance with USPAP. Certified Pennsylvania evaluators may obtain a copy of the current edition of USPAP by writing, telephoning or e-mailing the Appraisal Foundation at 1029 Vermont Avenue, N.W., Suite 900, Washington, D.C. 20005-3517, (202) 347-7722 or info@appraisalfoundation.org, respectively.

###### *Standard 2. Public review of assessments and records.*

Certified Pennsylvania evaluators shall make property assessments available for public review and shall make



all other records in their custody available for public review unless access to the records is specifically limited or prohibited by law or the information has been obtained on a confidential basis and the law permits the information to be treated confidentially.

*Standard 3. Professional qualifications.*

Certified Pennsylvania evaluators shall use professional designations only when they are properly authorized to do so. Certified Pennsylvania evaluators may not claim qualifications that are false, misleading or deceptive.

*Standard 4. Limitations on activities.*

Certified Pennsylvania evaluators may not perform assessment and appraisal-related assignments that could reasonably be construed as being in conflict with their responsibilities to their jurisdictions, employers or clients, in which they have unrevealed personal interests or biases, or that they are not qualified to perform.

*Standard 5. Contingent fees.*

Certified Pennsylvania evaluators may not perform an assessment or appraisal-related assignment if the employment itself is contingent upon the reporting of a predetermined analysis or opinion, or if the fee to be paid for the performance of the assignment is contingent upon the opinion, conclusion or valuation reached, or upon the consequences resulting from the assignment.

*Standard 6. Advertising and promotion.*

Certified Pennsylvania evaluators may not make false, misleading or deceptive statements or claims in advertising or promotions to solicit assessment and appraisal-related assignments.

*Standard 7. Conflict of interest.*

Certified Pennsylvania evaluators who are government employees may not solicit or perform assessment and appraisal-related assignments that could create conflicts of interest or the appearance of conflicts of interest.

*Standard 8. Reporting of unethical practices.*

Certified Pennsylvania evaluators shall report unethical practices or other similar actions or activities which may discredit or reflect adversely upon the appraisal or assessment profession to the Complaints Office of the Bureau of Professional and Occupational Affairs by telephoning the Complaints Office at (800) 822-2113 or by submitting a written complaint to the Complaints Officer of the Bureau of Professional and Occupational Affairs, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649.

[Pa.B. Doc. No. 07-1275. Filed for public inspection July 20, 2007, 9:00 a.m.]

## Title 58—RECREATION

### PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 461, 461a,  
461b, 463 AND 463a]

#### Slot Machine Testing and Control; Possession of Slot Machines

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. §§ 1207 and 1320 (relating to

regulatory authority of board; and slot machine testing and certification standards), adopts Chapters 461a and 463a (relating to slot machine testing and control; and possession of slot machines) and rescinds Chapters 461 and 463 to read as set forth in Annex A.

*Purpose of the Final-Form Rulemaking*

Under 4 Pa.C.S. § 1203 (relating to temporary regulations), the Board initially adopted Chapter 461 at 35 Pa.B. 4045 (July 16, 2005) and Chapter 463 at 35 Pa.B. 6619 (December 3, 2005). Under 4 Pa.C.S. § 1203(b), the temporary regulations expired on July 5, 2007.

The Board is adopting Chapters 461a and 463a to replace the Board's temporary regulations with the permanent regulations.

*Explanation of Chapters 461a and 463a*

This final-form rulemaking replaces the temporary regulations in Chapters 461 and 463. Permanent regulations are needed because the temporary regulations expired on July 5, 2007.

Section 461a.1 (relating to definitions) contains definitions of terms used in Subpart E (relating to slot machines and associated equipment). Section 461a.2 (relating to protocol requirements) requires that slot machines be required to communicate with the Department of Revenue's (Department) central control computer.

Section 461a.3 (relating to testing and approval generally) sets forth requirements in 4 Pa.C.S. § 1320 that slot machines used in this Commonwealth must be approved by the Board and specifies testing options. This section also requires manufacturers to pay the costs related to the testing and approval of their products.

Section 461a.4 (relating to submission for testing and approval) provides a list of equipment that must be submitted for testing and what must be submitted if a manufacturer elects to use the abbreviated testing and approval process or when the Board will conduct the full review. It also addresses the use of trial periods, emergency modifications to prevent cheating or malfunctions and requires notice to the Board from slot machine licensees of known or suspected malfunctions.

Section 461a.5 (relating to slot machine conversions) requires that accurate records be kept of conversions and that the Board be given notice prior to conversions.

Section 461a.6 (relating to revocations and additional conditions) states that an approval may be revoked or conditions added if the Board determines that the equipment, device or software is not in compliance with the act or Board regulations or that it is not compatible the central control computer.

Section 461a.7 (relating to slot machine minimum design standards) contains detailed design standards that slot machines must meet. It addresses items including payout percentages, required meters, tower lights, reporting errors, communication with the central control computer, payout of jackpots, seating and entry authorization logs.

Section 461a.8 (relating to gaming vouchers) contains the design standards gaming voucher systems must meet. It requires establishment of a system of internal controls for the issuance and redemption of gaming vouchers including how payment will be made if the gaming voucher system is down. It also specifies reporting requirements, accounting procedures for gaming vouchers and how malfunctions and modifications are to be handled.

Section 461a.9 (relating to coupons) requires security measures to permit verification of the coupon, information that must be on the coupons and the development of internal controls governing the use of coupons.

Section 461a.10 (relating to automated gaming voucher and coupon redemption machines) establishes the requirements for the use of gaming voucher and coupon redemption machines. These requirements include the capability to check the validity of gaming vouchers and coupons by reconciling them with the gaming voucher and coupon systems, locking systems on the redemption machines, restrictions on access to currency cassettes, protection against transaction or data loss due to power loss, detection and recording of errors and transaction histories and the production of various reports.

Section 461a.11 (relating to automated gaming voucher and coupon redemption machines; accounting controls) requires slot machine licensees to develop internal controls governing the distribution of currency to and removal of currency, gaming vouchers or coupons from automated gaming voucher and coupon redemption machines.

Section 461a.12 (relating to progressive slot machines) covers the types of meters that are required, key control, probability of winning, approvals required from the Board, transfers of jackpots, removal of slot machines offering progressive jackpots and recordkeeping.

Section 461a.13 (relating to wide area progressive systems) contains provisions governing wide area progressive systems which link progressive slot machines at multiple licensed facilities. It lists the items that must be in the slot system agreement governing the operation of the wide area progressive system, who may act as the slot system operator and requirements for the computer monitoring room for the wide area progressive system.

Sections 461a.14—461a.16 (relating to slot monitoring systems; casino management systems; and player tracking systems) permit the use of these systems and require them to comply with the act and the Board's regulations and technical standards.

Section 461a.17 (relating to external bonusing systems) allows the use of external bonusing systems and sets limits on the payout percentages that can be used with these systems.

Section 461a.18 (relating to cashless funds transfer systems) permits the use of cashless funds transfer systems if the slot machine licensee has established a system of internal controls which include the items listed in this section. It also requires a patron access control system, reporting requirements and written notice to the Slot Lab of adjustments to the amount of credit transferred to a slot machine using this system.

Section 461a.19 (relating to remote system access) establishes the requirements for remote access to various systems by licensed manufacturers.

Sections 461a.20 and 461a.21 (relating to server supported slot systems; and server based slot systems) define what server supported and server based slot systems are and require that these systems be tested and approved by the Board prior to their use. These sections also require the development of internal controls addressing the integrity, security and control of these systems.

Section 461a.22 (relating to automated jackpot payout machines) allows for the use of automated jackpot payout machines to pay jackpots not paid by a slot machine. This section requires compliance with Board standards and the

development and approval of internal controls governing the payout of jackpots and distribution of funds to these machines.

Section 461a.23 (relating to slot machines and associated equipment utilizing alterable storage media) defines what is considered to be alterable storage media and requires it to comply with Board standards.

Section 461a.24 (relating to waivers) specifies when the Board may waive a requirement of this subpart and describes how a waiver may be requested by a manufacturer or slot machine licensee.

Section 461a.25 (relating to disputes) sets forth the responsibilities of slot machine licensees when a patron dispute arises concerning payment of alleged winnings. It also requires slot machine licensees to notify the Board in writing if the dispute is not resolved within 7 days.

Section 461a.26 (relating to testing and software installation on the live gaming floor) requires 72 hour advanced notice to the Slot Lab prior to the testing or installation of new software on the live gaming floor. It also sets forth the information that must be provided in the notice.

Section 463a.1 (relating to possession of slot machines generally) outlines who may possess slot machines in this Commonwealth, for what purpose and how Board approval may be requested.

Section 463a.2 (relating to transportation of slot machines into, within and out of this Commonwealth) sets forth the information that must be submitted to the Bureau of Gaming Laboratory Operations when slot machines are moved into, out of or within this Commonwealth.

Section 463a.3 (relating to slot machine location) requires the location of each slot machine on a gaming floor to be identified by number and that the numbered location appear on the Slot Machine Master List.

Section 463a.4 (relating to connection to the central control computer system) requires each slot machine on the gaming floor to be connected to the central control computer system as required by 4 Pa.C.S. § 1323 (relating to central control computer system).

Section 463a.5 (relating to slot machine master list) requires slot machine applicants and licensees to maintain a Slot Machine Master List and specifies the information that must be in the list. It also requires maintenance of a slot machine movement log and specifies the information that must be included in this log. Finally, it requires anyone other than slot machine applicants or licensees who is authorized to possess slot machines to also submit a Slot Machine Master list within 3 days of receipt of slot machines and monthly updates thereafter.

Section 463a.6 (relating to notice to the central computer system) requires slot machine licensees to report the placement, movement and removal of slot machines to the Department to insure accurate recording of meter information.

Section 463a.7 (relating to off premises storage of slot machines) sets forth the process for slot machine licensees to request permission to store slot machines in a location off the premises of the licensed facility and the information that must be included in a request.

#### *Comment and Response Summary*

Notice of proposed rulemaking was published at 36 Pa.B. 6517 (October 28, 2006).

The Board received comments on the proposed rule-making from the Independent Regulatory Review Commission (IRRC). Those comments were reviewed by the Board and are discussed in detail as follows.

IRRC requested that the Board provide additional information pertaining to the need for the regulations and the fiscal impact in the preamble and Regulatory Analysis Form. Additional information has been included. However, the Board notes that because gaming is new to this Commonwealth and licenses have just been issued, the fiscal information available is somewhat limited.

IRRC also urged the Board to review a number of phrases which it thought were vague. These phrases were in Appendix A of IRRC's comments.

The Board reviewed Appendix A and, as suggested by IRRC, deleted phrases such as "when applicable," "in a manner approved by the Board" and "in a manner prescribed by the Board."

The Board has not deleted "additional documentation requested by the Board," which appears in several sections. While the Board attempted to provide comprehensive guidance to manufacturers as to what information the Board needs to evaluate their products, there will be times when the Board will need additional information from a manufacturer. This is particularly true when new products are submitted. However, the Board added language to make it clear that the additional information requested must relate to the product that is being reviewed.

Most of the phrases referring to "approved by the Board" have also been deleted; they were intended to refer back to the approval process in §§ 461a.3 and 461a.4 and are not needed. For other approvals, the Board added cross-references to the specific sections where the approval process is specified or added an approval process in the section.

IRRC also questioned the incorporation of technical standards, which are not contained in these regulations, as binding requirements. Use of ". . . this approach would allow an agency or department to bypass the formal regulatory review process . . ."

Use of binding technical standards to supplement the Board's regulations is not an attempt by the Board to bypass the regulatory review process. It is merely intended as a means by which the Board can keep pace with changes in gaming technology.

Due to the dynamic nature of the industry, new games and new equipment are constantly being brought to market. Because it takes a minimum of 6 months to promulgate a regulation, use of the technical standards is the only way the Board can develop new standards for these new products in a timely manner.

The technical standards are not intended to be permanent rules. As a technology matures, it is the Board's intention to initiate proposed rulemakings which will bring the applicable technical standards into the regulations. The Board is also examining the possibility incorporating National standards, such as those developed by the Gaming Standards Association, as an alternative to Pennsylvania-specific technical standards.

Technical standards are used extensively in other gaming jurisdictions for the same reason the Board is proposing to use them here, which is to promote rapid approval of new games and equipment. Without technical standards, manufacturers would face long delays before they could offer their products in this Commonwealth and slot

machine licensees would not be able to offer the newest games or take advantage of new systems or equipment as quickly as competitors in other states. In an industry as competitive as gaming, not using technical standards would result in significant loss of revenue to slot machine licensees and the Commonwealth.

For these reasons, the Board retained the references to technical standards in this final-form rulemaking. However, the Board added references to specific existing technical standards in several sections to add clarity. When technical standards have not yet been developed, the Board added the phrase "and published in the *Pennsylvania Bulletin* and posted on the Board's website." This will insure that the regulated public has access to all of the standards that the Board is using to evaluate new products.

IRRC had concerns with the definitions of "conversion" and "player tracking system." They asked if "conversion" also applied to associated equipment and suggested the last sentence in the definition of "player tracking system" be deleted.

Use of the term "conversion" in the industry is restricted to slot machines only. Accordingly, the definition has not been revised to include associated equipment.

Concerning the definition of "player tracking system," it was not the Board's intent that the last sentence be a substantive provision. It was intended to include both general and individual systems within the scope of the term. Therefore, the definition has been amended to clarify this fact.

Concerning § 461a.3, IRRC suggested that the Board provide more detail on how the costs of testing and approval of slot machines would be calculated.

The Board agreed with this suggestion and amended subsections (d) and (e) to clarify that the general costs will be billed to manufacturers quarterly based on the proportion of products reviewed and specific costs will be based on the time required to conduct the review of each product.

In § 461a.4, IRRC noted that "periodically," which appeared in subsections (e) and (f), is vague and should be deleted.

The Board agreed with IRRC and "periodically" has been deleted in both subsections. Additionally, subsection (f) was amended to require an attestation that the product was properly and completely tested by the manufacturer prior to its submission to the Board.

In § 461a.12(m), IRRC asked what the basis was for the \$1,200 threshold.

The threshold for Federal withholding is \$1,200. However, after further consideration, the Board does not believe this provision is needed. Therefore, subsections (m) and (n) have been deleted.

In § 461a.24, IRRC recommended that the procedures for requesting a waiver be included in the regulations.

The Board concurred with this recommendation and revised this section to address IRRC's concern and to provide greater clarity of the waiver process. Subsection (a) outlines the circumstances when the Board, on its own initiative, may waive a requirement and subsection (b) outlines how a manufacturer may request a waiver.

In § 461a.25, IRRC suggested that in disputes over alleged winnings, patrons be given written notice of how they may contact the Board.

The Board agreed with this suggestion and amended subsection (a) to require the slot machine licensee to provide the patron with a Patron Dispute/Complaint Form and Instructions for Submitting a Patron Dispute/Complaint.

In § 463a.6, IRRC suggested that this section be deleted because it is the responsibility of the Department to establish its reporting requirements.

The Board agreed that the Department has authority to establish its own reporting requirements. However, the Board, under its general authority, can also establish reporting requirements. The purpose of this section was simply to require that notice be given to the Department and to provide a basis for the Board to initiate an enforcement action against a slot machine licensee who fails to provide this notice. To clarify the Board's intent, this section has been amended accordingly.

IRRC also suggested that the Board add definitions for 27 terms and phrases that are used in these chapters.

Definitions have been added for 21 of these terms. Rather than adding definitions, the terms "high-boy," "pay table," "progressive rate" and "promotional program" have been deleted and replaced with clarifying language. Additionally, the definition of "double up" is already in § 461a.1, so the Board does not believe a definition of "double up games" is necessary. Similarly, the term "Slot Machine Master List" is described extensively in § 463a.5, so no definition is needed.

Finally, IRRC suggested that the references to temporary regulations be deleted.

The Board discussed this issue with the Legislative Reference Bureau (LRB) prior to the publication of this final-form rulemaking and this is how the LRB has instructed the Board to reference other chapters. The Board will update these citations as permanent regulations are finalized.

#### *Additional Amendments*

In addition to the previous amendments, the Board made some additional revisions.

Throughout the chapters, "slot accounting department" has been changed to "finance department." "Finance department" is the more commonly used term in the industry for this department.

New § 461a.26 addresses testing and installation of new software on a live gaming floor. Before either of these can occur, the slot machine licensee will be required to provide specific information regarding the testing or software installation at least 72 hours in advance.

In § 463a.1, subsections (c) and (d) have been added. These subsections contain the process the Board will use to accept and review requests to possess slot machines from entities other than slot machine licensees.

Additionally, § 463a.7 has been added to establish provisions governing the off premises storage of slot machines. This section sets forth the process for requesting permission for off premises storage, the information that must be provided to the Board and requires an inspection of the storage location before the Board will act on the request.

Finally, the numbering of the statement of policy in Chapter 461a (relating to technical standards—statement of policy) will be changed to Chapter 461b (§§ 461b.1—461b.5).

#### *Affected Parties*

This final-form rulemaking imposes performance standards that slot machines and associated equipment will have to meet before manufacturers can offer their products for sale and use in this Commonwealth. Suppliers, manufacturer designees and slot machine licensees also will be affected because they can only sell or purchase products that have been tested and approved for use in this Commonwealth.

#### *Fiscal Impact*

*Commonwealth.* Most of the Commonwealth's costs associated with this final-form rulemaking will be incurred by the Board's Gaming Laboratory Operations Bureau, which is responsible for testing slot machines and associated equipment and tracking the location and movement of slot machines.

The Department will also experience some cost regarding the testing of slot machines for compliance and compatibility with the central control computer system.

Law enforcement agencies authorized by the Board to possess slot machines will experience some reporting costs.

*Political subdivisions.* This final-form rulemaking will have no significant fiscal impact on political subdivisions of this Commonwealth.

*Private sector.* Manufacturers will experience significant costs associated with the testing and approval of their products by the Board. The Board is charging manufacturers based upon the time required for the testing of various types of equipment. Therefore, the costs incurred by an individual manufacturer will be a function of the number of products it submits for testing. Costs for the Gaming Laboratory that are not covered by fees will be assessed on all manufacturers as required by 4 Pa.C.S. § 1320(b).

Manufacturers, suppliers, manufacturer designees and slot machine licensees will experience some costs associated with the submission of reports prior to the transportation of slot machines and submission of monthly reports specifying the location and other data for all slot machines in their possession.

Educational institutions and others authorized by the Board to possess slot machines will experience some reporting costs.

*General public.* This final-form rulemaking will have no fiscal impact on the general public.

#### *Paperwork Requirements*

This final-form rulemaking requires manufacturers to provide extensive documentation in the form of operating manuals, wiring diagrams, and the like, needed to test their equipment.

Manufacturers, suppliers, manufacturer designees and slot machine licensees will be required to complete and submit reports prior to the transportation of slot machines and will have to submit monthly reports specifying the location and other data for all slot machines in their possession.

Educational institutions and law enforcement agencies authorized to possess slot machines will also have to submit monthly reports specifying the location and other data for all slot machines in their possession.

*Effective Date*

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

*Contact Person*

The contact person for questions about this final-form rulemaking is Richard Sandusky, Director of Regulatory Review, (717) 214-8111.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on September 27, 2006, the Board submitted a copy of the notice of proposed rulemaking, published at 36 Pa.B. 6517, to IRRC and the Chairpersons of the House Tourism and Recreational Development Committee and the Senate Committee on Rules and Executive Nominations for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on June 6, 2007, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 7, 2007, and approved the final-form rulemaking.

*Findings*

The Board finds that:

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

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

*Order*

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

(a) The regulations of the Board, 58 Pa. Code, are amended by deleting §§ 461.1—461.24 and 463.1—463.6 and by adding final regulations in §§ 461a.1—461a.26 and 463a.1—463a.7 to read as set forth in Annex A.

(*Editor's Note:* The addition of §§ 461a.26 and 463a.7 was not included in the proposed rulemaking published at 36 Pa.B. 6517.)

(b) The statement of policy in §§ 461a.1—461a.5 is renumbered as §§ 461b.1—461b.5.

(c) The Chairperson of the Board shall certify this order and Annex A and deposit them with the LRB as required by law.

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

THOMAS A. DECKER,  
*Chairperson*

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 37 Pa.B. 2909 (June 23, 2007).)

**Fiscal Note:** Fiscal Note 125-48 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 58. RECREATION**

**PART VII. GAMING CONTROL BOARD**

**Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT**

**CHAPTER 461. (Reserved)**

**§§ 461.1—461.24. (Reserved).**

**CHAPTER 461a. SLOT MACHINE TESTING AND CONTROL**

- Sec.
- 461a.1. Definitions.
- 461a.2. Protocol requirements.
- 461a.3. Testing and approval generally.
- 461a.4. Submission for testing and approval.
- 461a.5. Slot machine conversions.
- 461a.6. Revocations and additional conditions.
- 461a.7. Slot machine minimum design standards.
- 461a.8. Gaming vouchers.
- 461a.9. Coupons.
- 461a.10. Automated gaming voucher and coupon redemption machines.
- 461a.11. Automated gaming voucher and coupon redemption machines: accounting controls.
- 461a.12. Progressive slot machines.
- 461a.13. Wide area progressive systems.
- 461a.14. Slot monitoring systems.
- 461a.15. Casino management systems.
- 461a.16. Player tracking systems.
- 461a.17. External bonusing systems.
- 461a.18. Cashless funds transfer systems.
- 461a.19. Remote system access.
- 461a.20. Server supported slot systems.
- 461a.21. Server based slot systems.
- 461a.22. Automated jackpot payout machines.
- 461a.23. Slot machines and associated equipment utilizing alterable storage media.
- 461a.24. Waivers.
- 461a.25. Disputes.
- 461a.26. Testing and software installation on the live gaming floor.

**§ 461a.1. Definitions.**

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

*Asset number*—A unique number assigned to a slot machine by a slot machine licensee for the purpose of tracking the slot machine while owned by the slot machine licensee.

*Automated jackpot payout machine*—The collective hardware, software, communications technology and other ancillary equipment used to facilitate the payment of a jackpot that is not totally and automatically paid directly from a slot machine.

*Bonus award*—An award of cash or credits to a randomly selected player that is not generated by the slot machine.

*Cashless funds transfer system*—The collective hardware, software, communications technology and other ancillary equipment used to facilitate the electronic transfer of cashable or noncashable credits to a patron at a slot machine.

*Casino management system*—The collective hardware, software, communications technology and other ancillary equipment used to collect, monitor, interpret, analyze, report and audit data with regard to activity at slot machines, inclusive of slot machine level accounting transactions, player tracking and productivity analysis.

*Common carrier*—An entity that transports persons or goods, and offers its services to the general public.

*Conversion*—A change or alteration to a slot machine that does not affect the manner or mode of play or operation of the slot machine.

*Coupon*—An instrument issued by a slot machine licensee under which cashable or noncashable slot machine credits are provided directly or indirectly to a patron with or without regard to the identity of the patron or the patron's level of gaming activity.

*Coupon system*—The collective hardware, software, communications technology and other ancillary equipment used to facilitate the issuance of coupons, the acceptance of a coupon by a slot machine or its redemption at an automated coupon redemption machine, cashiers' cage or other locations.

*Currency cassette*—A container that holds banknotes that are available for dispensing.

*Double-up*—An optional wager on a slot machine in which the player has a mathematically equal probability of winning or losing the wager.

*Educational institution*—A facility that teaches and certifies students in slot machine design, operation, repair or servicing.

*External bonusing system*—The collective hardware, software, communications technology and other ancillary equipment used in conjunction with slot machines to deliver randomly selected player incentives (bonus awards) to active slot machine players and to effect the accurate metering of the bonus award event on the slot machine.

*Finance department*—The department that is responsible for the management of the financial and accounting activities relating to slot machines being utilized on an approved gaming floor.

*Gaming day*—A period of time not to exceed 24 hours corresponding to the beginning and ending times of gaming activities for the purpose of accounting reports and determination by the central control computer system of gross terminal revenue.

*Gaming voucher*—An instrument that upon insertion into a slot machine bill validator entitles the patron inserting the gaming voucher to cashable or noncashable credits on a slot machine corresponding to the value printed on the gaming voucher.

*Gaming voucher system*—The collective hardware, software, communications technology and other ancillary equipment used to facilitate the issuance of gaming vouchers and the redemption of gaming vouchers by slot machines, automated gaming voucher redemption machines, the cashiers' cage or in other locations.

*Hand pay*—The payment of credits that are not totally and automatically paid directly from a slot machine.

*Manufacturer's par sheet*—A document supplied by the manufacturer that shows payable information including, but not limited to, theoretical payout percentage, winning combinations, awards and reel strips.

*Modification*—A change or alteration in a slot machine or associated equipment that affects the manner or mode of play or operation of the slot machine or associated equipment.

(i) The term includes a change to control or graphics programs and to the theoretical hold percentage.

(ii) In the case of slot machines, the term does not include:

(A) A conversion.

(B) Replacement of one approved component with an identical component.

(iii) In the case of a wide area progressive system, the term includes a change in:

(A) A system name or theme.

(B) The odds to win the progressive payout.

(C) The reset amount.

(D) The rate at which a progressive award increases.

(E) The wager necessary to win the progressive payout.

*Paytables*—A selectable part of a slot machine program that contains slot machine characteristics including, but not limited to, the theoretical payback percentage, reel strips and awards.

*Player tracking system*—The collective hardware, software, communications technology and other ancillary equipment used to collect, monitor, interpret, analyze, authorize, report and audit data with regard to player activity generally or on an individual basis at slot machines.

*Progressive awards*—The award to be paid out when the event in the progressive game that triggered the award occurs.

*Progressive payout*—A slot machine payout that increases in a monetary amount based on the amounts wagered in a progressive system.

*Pseudo random number generator*—Software or hardware, or both, that ensures the randomness of slot machine outcomes.

*Randomness*—The observed unpredictability and absence of pattern in a set of elements or events that have definite probabilities of occurrence.

*Reel strips*—Components of a slot machine which display symbols.

*Related systems*—Systems which interface with slot machines or slot monitoring systems.

*Remote system access*—Connectivity to casino systems from outside the slot machine licensee's network.

*Reset amount*—The award value that a progressive award will revert to after the progressive award is paid out.

*Skill*—The application of intelligence and specific knowledge to achieve the best result when a slot machine offers a choice of options during game play.

*Slot Lab*—The Bureau of Gaming Laboratory Operations of the Board.

*Slot machine bill validator*—A component, made up of software and hardware that accepts and reads instruments such as bills, vouchers and coupons, into gaming devices such as slot machines and automated gaming voucher and coupon redemption machines.

*Slot monitoring system*—The collective hardware, software, communications technology and other ancillary equipment used to collect, monitor, interpret, analyze, authorize, report and audit data with regard to activity at slot machines, inclusive of slot machine meter readings, error conditions, slot machine security, accounting, player tracking and productivity analysis.

*Slot operations department*—The department that is responsible for all operations in any area of the licensed facility where slot machines are kept.

*Slot system operator*—The persons designated in a slot system agreement as being responsible for the operation and administration of a wide area progressive system.

*Strategy choice*—A particular play option on a slot machine that requires the use of skill to consistently achieve the best result.

*Theme*—A concept, subject matter and methodology of design of a slot machine.

*Theoretical payout percentage*—The aggregate awards expected to be paid out over one cycle of the game divided by the total number of combinations in the cycle of the game.

*Wager*—Placing at risk in a slot machine a coin, bill, ticket, gaming voucher, coupon or similar object or, upon payment of any consideration, including the use of cashless funds transfer systems and external bonusing systems.

*Wide area progressive system*—Linked progressive slot machines which are located at two or more licensed facilities.

**§ 461a.2. Protocol requirements.**

In accordance with section 1324 of the act (relating to protocol information), manufacturer licensees, manufacturer designee licensees and supplier licensees shall be required to enable all slot machines to communicate with the Department's central control computer for the purpose of transmitting auditing program information and activating and disabling slot machines.

**§ 461a.3. Testing and approval generally.**

(a) In accordance with section 1320 of the act (relating to slot machine testing and certification standards), the Board will determine the manner and scope in which slot machines and associated equipment are to be tested and approved prior to operation and use in a licensed facility in this Commonwealth.

(b) Slot machines and associated equipment operated in this Commonwealth must be approved by the Board.

(c) The Board has the authority to require one or more of the following procedures:

(1) An abbreviated testing and approval process in accordance with § 461a.4(g) (relating to submission for testing and approval).

(2) Testing and approval in accordance with § 461a.4(i).

(3) Utilize the services of a Board-approved private slot machine testing facility to conduct the testing until a slot machine testing facility is established by the Board.

(d) The general cost of establishment and operation of the Board's testing facility shall be paid by each manufacturer licensee on a quarterly basis based upon each manufacturer's proportion of the total number of products reviewed.

(e) The Board will require payment of all costs for the testing and approval of slot machines and associated equipment submitted by manufacturers or installed at a licensed facility based on the actual direct costs incurred by the Board.

(f) The Board will require a manufacturer licensee seeking approval of a slot machine or associated equipment to pay all costs of transportation, inspection and testing.

**§ 461a.4. Submission for testing and approval.**

(a) A slot machine or associated equipment identified in subsection (c) (collectively referred to as "products" or "equipment, device or software"), or a modification thereto, may not be offered for sale, lease or distribution for ultimate use by a slot machine licensee in this Commonwealth unless a prototype identical in all mechanical, electrical, electronic and other respects has been tested and approved by the Board.

(b) When an applicant for, or holder of, a slot machine license develops software or a system that is functionally equivalent to any of the slot systems enumerated in subsection (c), that software or system shall be subject to the testing and approval process of this subpart to the same extent as if the software or system were developed by an applicant for, or holder of, a manufacturer license. Any reference in this subpart to the responsibilities of a manufacturer applies to an applicant for, or holder of, a slot machine license developing software or systems subject to testing and approval under this subpart.

(c) For the purposes of this section, slot machines and associated equipment that shall be submitted for testing and Board approval include:

(1) Slot machines, including bill validators and printers.

(2) Slot monitoring systems, to the extent the systems interface with slot machines and related systems.

(3) Casino management systems, to the extent the systems interface with slot machines and related systems.

(4) Player tracking systems, to the extent the systems interface with slot machines and related systems.

(5) Progressive systems, including wide area progressive systems.

(6) Gaming voucher systems.

(7) External bonusing systems.

(8) Cashless funds transfer systems.

(9) Machines performing gaming voucher, coupon or jackpot payout transactions.

(10) Coupon systems, to the extent the systems interface with slot machines and related systems.

(11) Other related systems.

(d) Slot machine prototypes and associated equipment prototypes, and modifications thereto, which are subject to testing and approval under this section will be evaluated by the Board for overall operational integrity and compliance with the act, this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website. In addition, with regard to any slot machine, or modification thereto, the Board will test for compatibility and compliance with the central control computer and protocol specifications approved by the Department including the ability to communicate with the central control computer for the purpose of transmitting auditing program information, real time information retrieval and activation and disabling of slot machines.

(e) The Board may prescribe a standard product submission checklist, together with supplemental product specific submission checklists for completion by an applicant for, or holder of, a manufacturer license, to facilitate the examination and analysis of a prototype or modification.

(f) The Board may require the chief engineer of the applicant for, or holder of, a manufacturer license or the engineer in charge of the division of the manufacturer responsible for producing the product submitted to attest that the product was properly and completely tested by the manufacturer prior to its submission to the Board.

(g) Notwithstanding the terms of subsection (d), the Board may utilize an abbreviated testing and approval process in accordance with section 1320 of the act (relating to slot machine testing and certification standards).

(h) When an applicant for, or holder of, a manufacturer license seeks to utilize, during the applicable period, the abbreviated testing and approval process for a slot machine prototype, associated equipment prototype or any modification thereto, it shall submit to the Slot Lab the following:

(1) A prototype of the equipment, device or software accompanied by a written request for abbreviated testing and approval which identifies the jurisdiction within the United States upon which the applicant for, or holder of, a manufacturer license proposes the Board rely ("named jurisdiction"). The manufacturer shall transport the equipment device or software at its own expense and deliver it to the offices of the Slot Lab.

(2) A certification executed by the chief engineer of the applicant for, or holder of, a manufacturer license or the engineer in charge of the division of the manufacturer responsible for producing the equipment, device or software submitted ("professional") asserting that:

(i) The specific prototype or modification is identical in all mechanical, electrical, electronic and other respects to one which has been tested and approved by the testing facility operated by the named jurisdiction or a private testing facility on behalf of the named jurisdiction.

(ii) The manufacturer is licensed and in good standing in the named jurisdiction and that the subject product has all regulatory approvals prerequisite to sale or distribution in the named jurisdiction.

(iii) In the professional's opinion, the testing standards of the named jurisdiction are comprehensive and thorough and provide similar adequate safeguards as those required by this subpart.

(iv) In the professional's opinion, the equipment, device or software complies with the act, this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website including requirements related to the central control computer.

(3) An executed copy of a current product submission checklist, and any product specific supplemental submission checklists applicable to the submitted equipment, device or software unless a substantially similar checklist was filed with the named jurisdiction and is included in the submission package required by paragraph (4).

(4) Copies of the submission package, and amendments thereto, filed with the named jurisdiction, copies of any correspondence, review letters or approvals issued by the testing facility operated by the named jurisdiction or a private testing facility on behalf of the named jurisdiction and, as applicable, a copy of the final regulatory approval issued by the named jurisdiction.

(5) A disclosure that lists any conditions or limitations placed by the named jurisdiction on the operation or placement of the equipment, device or software at the time of approval or subsequently thereafter.

(6) A complete, comprehensive and technically accurate description of the manner in which the slot machine was tested for compatibility and compliance with the central control computer and protocol specifications approved by the Department including the ability to communicate with the central control computer for the purpose of transmitting auditing program information, real time information retrieval and activation and disabling of slot machines.

(7) Any hardware, software and other equipment, inclusive of technical support and maintenance applicable thereto, required by the Slot Lab to conduct the abbreviated testing and approval process contemplated by the act, this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website. The testing equipment and services required by this paragraph shall be provided at no cost to the Board.

(8) Additional documentation requested by the Board which is necessary to evaluate the slot machine, associated equipment or modification thereto.

(i) When an applicant for, or holder of, a manufacturer license seeks Board approval of a slot machine prototype, associated equipment prototype, or any modification thereto for which the abbreviated testing process in subsection (g) is not applicable, it shall submit to the Slot Lab the following:

(1) A prototype of the equipment, device or software accompanied by a written request for testing and approval. The manufacturer shall transport the equipment, device or software at its own expense and deliver it to the offices of the Board's Slot Lab in accordance with instructions provided.

(2) Certifications required under subsection (f) providing assurances from the manufacturer that the product was properly and completely tested and emulated by the manufacturer prior to its submission to the Board and that the product, device or software complies with the act, this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website, including applicable requirements related to the central control computer.

(3) An executed copy of a current product submission checklist, and any product specific supplemental submission checklists applicable to the submitted equipment, device or software.

(4) A complete, comprehensive and technically accurate description of the equipment, device or software, accompanied by applicable diagrams, schematics and specifications, together with documentation with regard to the manner in which the product was tested and emulated by the manufacturer prior to its submission to the Board.

(5) Any hardware, software and other equipment, inclusive of technical support and maintenance applicable thereto, required by the Slot Lab to conduct the testing and approval process contemplated by the act, this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website. The testing equipment and services required by this paragraph shall be provided at no cost to the Board.

(6) In the case of a slot machine prototype, the following additional information:

(i) A copy of all executable software, including data and graphics information, on electronically readable, unalterable media.



(ii) A copy of all source code for programs that cannot be reasonably demonstrated to have any use other than in a slot machine, on electronically readable, unalterable media.

(iii) A copy of all graphical images displayed on the slot machine including reel strips, rules, instructions and paytables.

(iv) A mathematical explanation of the theoretical return to the player, listing all assumptions, all steps in the formula from the first principles through to the final results of all calculations including bonus pays and, when a game requires or permits player skill in the theoretical derivations of the payout return, the source of strategy.

(v) Hardware block diagrams of the major subsystems.

(vi) A complete set of schematics for all subsystems.

(vii) A wiring harness connection diagram.

(viii) A technical and an operator manual.

(ix) A description of security methodologies incorporated into the design of the slot machine including, when applicable, encryption methodology for all alterable media, auto-authentication of software and recovery capability of the slot machine for power interruption.

(x) For meters required by this subpart or technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website, a cross reference of product meters to the required meters, if necessary.

(xi) A description of tower light functions indicating the corresponding condition.

(xii) A description of error conditions and the corresponding action required by the operator.

(xiii) A description of the use and function of available dip switch settings or configurable options.

(xiv) A description of the pseudo random number generator or generators used to determine game outcome, including a detailed explanation of operational methodology, and a description of the manner by which the pseudo random number generator and random number selection process is impervious to outside influences, interference from electro-magnetic, electrostatic and radio frequencies, and influence from ancillary equipment by means of data communications. Test results in support of representations shall be submitted. For the purposes of this section, "game outcome" means the results of a wager.

(xv) Specialized hardware, software or testing equipment, inclusive of technical support and maintenance, needed to complete the evaluation, which may include an emulator for a specified microprocessor, PCs, extender cables for CPU boards, target reel strips and door defeats. The testing equipment and services required by this paragraph shall be provided at no cost to the Board.

(xvi) A compiler, or reasonable access to a compiler, for the purpose of building applicable code modules.

(xvii) Program storage media including EPROMs, EEPROMs and any type of alterable media for slot machine software.

(xviii) Technical specifications for any microprocessor or microcontroller.

(xix) A complete, comprehensive and technically accurate description of the manner in which the slot machine was tested for compatibility and compliance with the central control computer and protocol specifications approved by the Department including the ability to com-

municate with the central control computer for the purpose of transmitting auditing program information, real time information retrieval and activation and disabling of slot machines.

(xx) Additional documentation requested by the Board relating to the slot machine.

(7) In the case of a modification to a slot machine prototype, including a change in theme, the following additional information:

(i) A complete, comprehensive and technically accurate description of the proposed modification to the slot machine prototype, accompanied by applicable diagrams, schematics and specifications.

(ii) When a change in theme is involved, a copy of the graphical images displayed on the slot machine including reel strips, rules, instructions and paytables.

(iii) When a change in the manner in which the theoretical payout percentage is achieved is involved, a mathematical explanation of the theoretical return to the player, listing all assumptions, all steps in the formula from the first principles through to the final results of all calculations including bonus pays and, when a game requires or permits player skill in the theoretical derivations of the payout return, the source of strategy.

(iv) A complete, comprehensive and technically accurate description of the manner in which the slot machine was tested for compatibility and compliance with the central control computer and protocol specifications approved by the Department including the ability to communicate with the central control computer for the purpose of transmitting auditing program information, real time information retrieval and activation and disabling of slot machines.

(v) Additional documentation requested by the Board relating to the modification of the slot machine.

(8) In the case of a slot monitoring system, casino management system, player tracking system, wide area progressive system, gaming voucher system, external bonusing system, cashless funds transfer system, automated gaming voucher, coupon redemption or jackpot payout machine, coupon system or any other equipment or system required to be tested and approved under subsection (c):

(i) A technical and an operator manual.

(ii) A description of security methodologies incorporated into the design of the system to include, when applicable, password protection, encryption methodology and its application, auto-authentication, network redundancy, back-up and recovery procedures.

(iii) A complete schematic or network diagram of the system's major components accompanied by a description of each component's functionality and a software object report. The description must disclose the functions performed by each component.

(iv) A description of the data flow, in narrative and in schematic form, including specifics with regard to data cabling and, when appropriate, communications methodology for multisite applications.

(v) A list of computer operating systems and third party software incorporated into the system together with a description of their interoperability.

(vi) System software and hardware installation procedures.

(vii) A list of available system reports.

(viii) When applicable, features for each system which may include patron and employee card functions, promotions, reconciliation procedures and patron services.

(ix) A description of the interoperability testing including test results for each submitted system's connection to, as applicable, slot machines, voucher, coupon redemption and jackpot payout machines, computerized systems for counting money, vouchers and coupons. This list must identify the tested products by manufacturer, model and software identification and version number.

(x) A narrative describing the method used to authenticate software.

(xi) All source code.

(xii) A complete, comprehensive and accurate description, accompanied by applicable diagrams, schematics and specifications, of the creation of a voucher and the redemption options available.

(xiii) A complete, comprehensive and technically accurate description, accompanied by applicable diagrams, schematics and specifications, of the creation of a coupon and the redemption options available.

(xiv) Any specialized hardware, software or other equipment, inclusive of technical support and maintenance applicable thereto, required by the Slot Lab to conduct the testing and approval process contemplated by the act, this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website. The testing equipment and services required by this paragraph shall be provided at no cost to the Board.

(xv) Additional documentation requested by the Board related to the equipment or system being tested.

(9) In the case of a modification to any of the systems identified in paragraph (8), the following additional information:

(i) A complete, comprehensive and technically accurate description of the proposed modification to the system, accompanied by applicable diagrams, schematics and specifications.

(ii) A brief narrative disclosing the purpose for the modification.

(iii) Additional documentation requested by the Board relating to the modification.

(j) At the conclusion of testing of a prototype or modification by the Slot Lab, but prior to a decision to approve a prototype or modification, the Board may require a trial period of scope and duration as it deems appropriate to assess the operation of the prototype or modification in a live gaming environment. The conduct of the trial period shall be subject to compliance by the licensed manufacturer, licensed manufacturer designee, applicable licensed suppliers, and the slot machine licensee with specific terms and conditions as may be required by the Board, which may include development and implementation of product specific accounting and internal controls, periodic data reporting to the Board and compliance with technical standards on trial periods or the prototype or modification adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website. The Board may authorize the receipt of compensation by a licensed manufacturer, licensed manufacturer designee or licensed supplier during the trial period. The Board may order termination of the trial period if it determines that the licensed manufacturer, licensed manufacturer designee, applicable licensed sup-

pliers or the slot machine licensee conducting the trial period has not complied with the terms and conditions required by the Board or that the product is not performing as expected.

(k) At the conclusion of testing of a prototype or modification, the Slot Lab will report to the Board the results of its testing. Upon receipt of the Slot Lab's report, the Board will:

(1) Approve, approve with conditions or reject the submitted prototype or modification.

(2) Require additional testing or a trial period under subsection (j).

(l) Board approval of a prototype or modification does not constitute a guarantee of the prototype or modification's safety.

(m) A slot machine licensee is prohibited from installing in its licensed facility a slot machine or associated equipment, or modification thereto, required to be tested and approved under subsection (c) unless the equipment, device or software has been approved by the Board. A slot machine licensee may not modify, alter or tamper with an approved slot machine or associated equipment. A slot machine or associated equipment installed in a licensed facility in contravention of this requirement will be subject to seizure by the Board.

(n) Notwithstanding subsection (m), the Board may authorize installation of a modification to a slot machine prototype or associated equipment prototype on an emergency basis to prevent cheating or malfunction, upon the written request of a licensed manufacturer. The request must expressly detail the name and employer of any persons to be involved in the installation of the modification and the manner in which it is to be effected. Within 15 days of receipt of any authorization to install an emergency modification, the manufacturer shall submit the modification for full testing and approval in accordance with this subpart.

(o) A slot machine licensee shall immediately notify the Board of any known or suspected defect or malfunction in any slot machine or associated equipment installed in its licensed facility. The slot machine licensee shall comply with instructions issued by the Board with regard to the continued operation of the slot machine or associated equipment.

(p) Concurrent with the initial receipt of slot machines, an applicant for, or holder of, a slot machine license shall file a slot machine master list as required by § 463a.5 (relating to slot machine master list).

(q) The testing of equipment, devices or software under this subpart may require the dismantling of the product and testing that may result in damage to, or destruction of, one or more systems or components. Once submitted for testing, equipment, devices or software will not be returned to the manufacturer.

#### § 461a.5. Slot machine conversions.

A slot machine licensee shall:

(1) Maintain complete and accurate records of all conversions.

(2) Give prior notice of a slot machine conversion to the Slot Lab in writing.

(3) Notice the Department in accordance with § 463a.6 (relating to notice to central control computer system).

**§ 461a.6. Revocations and additional conditions.**

The Board may revoke the approval of or impose additional conditions on a slot machine prototype, associated equipment prototype, or modification thereto, if the equipment, device or software meets either of the following criteria:

(1) The equipment, device or software is not in compliance with the act, this subpart or technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.

(2) The slot machine, or modification thereto, is not compatible with, or compliant with the central control computer and protocol specifications approved by the Department or is unable to communicate with the central control computer for the purpose of transmitting auditing program information, real time information retrieval and activation and disabling of slot machines.

**§ 461a.7. Slot machine minimum design standards.**

(a) A slot machine may not be set to pay out less than the theoretical payout percentage, which may not be less than 85% or equal or exceed 100%. The theoretical payout percentage for the total value of slot machine wagers will be calculated using the following:

(1) The defined set of all symbols that will be displayed using spinning reels or video displays, or both.

(2) The finite set of all possible combinations which shall be known as the cycle of the game. All possible combinations in a slot machine cycle shall be independent of each other and of all possible combinations from cycles in other slot machines.

(3) The value of each winning combination that corresponds with the set from paragraph (2) which, whether by reason of skill or application of the element of chance or both, may deliver or entitle the person or persons playing the slot machine to a jackpot.

(4) A payout of merchandise or anything of value provided a cash equivalent award for the merchandise is offered. The value of the cash equivalent will contribute to the calculation of the theoretical payout percentage.

(5) A payout in the form of an annuity will contribute to the calculation of the theoretical payout percentage by dividing the initial or reset amount of the jackpot payout by the number of years over which the jackpot will be paid.

(6) The odds of any winning combination may not exceed 50 million to 1.

(b) The calculation of the theoretical payout percentage will not include:

(1) The amount of any progressive jackpot in excess of the initial or reset amount.

(2) A cash or noncash complimentary issued under § 465.8 (relating to complimentary services or items).

(3) A payout of merchandise or anything of value when a cash equivalent award is not offered.

(c) A play offered by a slot machine may not have a theoretical payout percentage which is less than, when calculated to one hundredth of a percentage point, the theoretical payout percentage for any other play offered by that slot machine which is activated by a slot machine wager in a lesser amount than the slot machine wager required for that play. Notwithstanding the foregoing, the theoretical payout percentage of one or more particular

plays may be less than the theoretical payout percentage of one or more plays which require a lesser wager provided that:

(1) The aggregate total of the decreases in the theoretical payout percentage for plays offered by the slot machine is not more than 1/2 of 1%.

(2) The theoretical payout percentage for every play offered by the slot machine is equal to or greater than the theoretical payout percentage for the play that requires the lowest possible wager that will activate the slot machine.

(d) In addition to the requirements of subsections (a), (b) and (c), the volatility of a slot machine must verify that the theoretical payout percentage equals or exceeds the minimum payout requirement of 85% within 10 million plays. The criteria used to calculate the volatility must be in accordance with technical standards applicable to volatility under § 461b.1 (relating to slot machine minimum design standards).

(e) The selection from the set of all possible combinations of symbols shall be made applying a pseudo random number generator. At a minimum, a pseudo random number generator must adhere to the following criteria:

(1) The random selection process must meet a 95% confidence interval.

(2) A random number generator must pass a standard chi-squared test for goodness of fit.

(3) Each possible slot machine combination which produces winning or losing slot machine outcomes must be available for random selection at the initiation of each play.

(4) A slot machine payout percentage that may be affected by reason of skill must meet the theoretical payout requirements of this subpart when evaluated by the Board using a method of play that will provide the greatest return to the player.

(5) Once a random selection process has occurred, the slot machine must:

(i) Display an accurate representation of the randomly selected outcome.

(ii) Not make a secondary decision which affects the result shown to the person playing the slot machine.

(f) A slot machine is prohibited from automatically altering any function of the slot machine based on internal computation of the hold percentage.

(g) The available winning combinations and applicable rules of play for a slot machine shall be available at all times the slot machine is idle to the patron playing the slot machine. The award schedule of available winning combinations may not include possible aggregate awards achievable from free plays. A slot machine that includes a strategy choice must provide mathematically sufficient information for a patron to use optimal skill. Information regarding a strategy choice need not be made available for any strategy decisions whenever the patron is not required, in addition to the initial wager, to make an additional wager and, when as a result of playing a strategy choice, the patron can not lose any credits earned thus far during that game play.

(h) Slot machines approved for use in a licensed facility must be equipped with the following meters that comply with the technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website:

(1) *Coin in*. A meter that accumulates the total value of all wagers, whether the wager results from the insertion of currency, gaming vouchers, coupons, downloaded credits, credits won or any other means. This meter must:

(i) Not include subsequent wagers of intermediate winnings accumulated during game play sequence such as those acquired from "double up" games.

(ii) For multigame and multidenomination/multigame slot machines, monitor the information necessary, on a per payable basis, to calculate a weighted average actual payout percentage.

(2) *Coin out*. A meter that accumulates the total value of all amounts directly paid by the slot machine as a result of winning wagers, whether the payout is made directly from the printer by issuance of a gaming voucher, directly to a credit meter or by any other means. This meter may not record amounts awarded as the result of an external bonusing system or a progressive payout.

(3) *Attendant paid jackpots*. A meter that accumulates the total value of credits paid by an attendant resulting from a single winning alignment or combination, the amount of which is not capable of being paid by the slot machine itself. This meter may not record amounts awarded as the result of an external bonusing system or a progressive payout. This meter is to record only amounts specifically listed in the manufacturer's par sheet.

(4) *Attendant paid cancelled credits*. A meter that accumulates the total value of all amounts paid by an attendant resulting from a player initiated cash-out that exceeds the physical or configured capability of the slot machine.

(5) *Bill in*. A meter that accumulates the total value of currency accepted. The slot machine must also have a specific meter for each denomination of currency accepted that records the number of bills accepted for each denomination.

(6) *Voucher in—cashable/value*. A meter that accumulates the total value of cashable gaming vouchers accepted by the slot machine.

(7) *Voucher in—cashable/count*. A meter that accumulates the total number of cashable gaming vouchers accepted by a slot machine.

(8) *Voucher out—cashable/value*. A meter that accumulates the total value of cashable gaming vouchers issued by the slot machine.

(9) *Voucher out—cashable/count*. A meter that records the total number of cashable gaming vouchers issued by a slot machine.

(10) *Voucher out—noncashable/value*. A meter that accumulates the total value of noncashable gaming vouchers issued by the slot machine.

(11) *Voucher out—noncashable/count*. A meter that records the total number of noncashable gaming vouchers issued by the slot machine.

(12) *Cashable electronic in*. A meter that accumulates the total value of cashable credits electronically transferred to the slot machine by means of an external connection between the slot machine and a cashless funds transfer system.

(13) *Noncashable electronic in*. A meter that accumulates the total value of noncashable credits electronically

transferred to the slot machine by means of an external connection between the slot machine and a cashless funds transfer system.

(14) *Coupon in—cashable/value*. A meter that accumulates the total value of cashable coupons accepted by the slot machine.

(15) *Coupon in—cashable/count*. A meter that accumulates the total number of cashable coupons accepted by the slot machine.

(16) *Coupon in—noncashable/value*. A meter that accumulates the total value of noncashable coupons accepted by the slot machine.

(17) *Coupon in—noncashable/count*. A meter that accumulates the total number of noncashable coupons accepted by the slot machine.

(18) *Slot machine paid external bonus payout*. A meter that accumulates the total value of additional amounts awarded as a result of an external bonusing system and paid by the slot machine.

(19) *Attendant paid external bonus payout*. A meter that accumulates the total value of additional amounts awarded as a result of an external bonusing system and paid by a slot attendant.

(20) *Slot machine paid progressive payout*. A meter that accumulates the total value of credits paid as a result of progressive awards paid directly by the slot machine. This meter may not record awards paid as a result of an external bonusing system.

(21) *Attendant paid progressive payout*. A meter that accumulates the total value of credits paid by a slot attendant as a result of progressive awards that are not capable of being paid by the slot machine. This meter may not include awards paid as a result of an external bonusing system.

(22) *Additional requirements*. Other meters required by technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.

(i) A slot machine that does not meter one or more of the events required to be metered under subsection (h) may be approved when a slot machine licensee's system of internal controls establishes that the meter is not required to capture all critical transactions occurring on the slot machine.

(j) The meters required under subsection (h) must continuously and automatically increment in units equal to the denomination of the slot machine or, in the case of a slot machine configured for multidenomination play, must display the required information in dollars and cents.

(k) A slot machine approved for use in a licensed facility must be equipped with the following noncumulative meters:

(1) *Credits wagered*. A meter, visible from the front exterior of a slot machine, known as a credit wagered meter that advises the patron of the total value of amounts wagered in a particular game or round of slot play.

(2) *Win meter*. A meter, visible from the front exterior of the slot machine, known as a win meter that advises the patron of the total value of amounts won in the immediately concluded game or round of slot play.

(3) *Credits paid.* A meter, visible from the front exterior of the slot machine, known as a credits paid meter that advises the patron of the total value of the last:

- (i) Cash out initiated by the patron.
- (ii) Attendant paid jackpot.
- (iii) Attendant paid cancelled credit.

(4) *Credit meter.* A meter, visible from the front exterior of the slot machine and specifically labeled as a credit meter, which advises the patron as to the number of credits or monetary value available for wagering on the slot machine. The credit meter need not distinguish between cashable credits and noncashable credits.

(l) A slot machine must have a meter which stores the number of games played, in the manner and for a duration specified in this subpart or in technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website, since the following events:

- (1) Power reset.
- (2) Door close.
- (3) Game initialization (random access memory (RAM) clear).

(m) A slot machine must be equipped with a device, mechanism or method for retaining the total value of all meters required under subsection (h) for 72 hours subsequent to a power loss.

(n) The required meters on a slot machine must be accessible and legible without access to the interior of the slot machine.

(o) A slot machine must be equipped with a tower light capable of effectively communicating the status of the slot machine in accordance with technical standards on tower lights and error conditions under § 461b.2 (relating to slot machine tower lights and error conditions).

(p) A slot machine must be equipped with a device, mechanism or method for detecting, displaying and communicating to a slot monitoring system error conditions. The error conditions detected, displayed and communicated by a slot machine, and the method to be utilized to clear the message with regard to the error condition, must be in accordance with technical standards on tower lights and error conditions under § 461b.2.

(q) A slot machine must, in accordance with section 1324 of the act (relating to protocol information), comply with the comprehensive protocol specifications necessary to enable the slot machine to communicate with the Department's central control computer as that protocol is amended or supplemented, for the purpose of transmitting auditing program information, real time information retrieval and slot machine activation and disabling.

(r) A slot machine must lock up and preclude further play whenever a jackpot occurs that is not able to be paid completely by the slot machine and requires a hand pay. When the jackpot occurs, the slot machine can offer a predetermined number of double-up wagers before the slot machine locks up.

(s) Printers incorporated into a slot machine must be:

- (1) Designed to allow the slot machine to detect and report a low paper level, paper out, presentation error, printer failure and paper jams.
- (2) Mounted inside a lockable compartment within the slot machine.

(t) Seating made available by a slot machine licensee for use during slot play must be fixed and stationary in nature. Slot seating must be installed in a manner that effectively precludes its ready removal by a patron but permits controlled removal, for example for American With Disabilities Act of 1990 (ADA) (42 U.S.C.A. §§ 12101—12213) purposes, by slot operations department personnel.

(u) Unless a slot machine licensee's slot monitoring system is configured to automatically record all of the information required by this subsection, the slot machine licensee shall be required to physically house in each slot machine the following entry authorization logs:

(1) A machine entry authorization log that documents each time a slot machine or any device connected thereto which may affect the operation of the slot machine is opened. The log must contain, at a minimum, the date, time, purpose for opening the slot machine or device and the signature and license or permit number of the person opening and entering the slot machine or device. Each log must have recorded thereon a sequence number and the manufacturer's serial number or the asset number corresponding to the slot machine in which it is housed.

(2) A progressive entry authorization log that documents each time a progressive controller not housed within the cabinet of the slot machine is opened. The log must contain, at a minimum, the date, time, purpose for accessing the progressive controller and the signature and license or permit number of the person accessing the progressive controller. Each log must be maintained in the progressive controller unit and have recorded thereon a sequence number and the manufacturer's serial number of the progressive controller.

(v) A slot machine must be equipped with a lock controlling access to the card cage door securing the microprocessor, the key to which must be different from any other key securing access to the slot machine's components including its belly door or main door, bill validator or slot cash storage box. Access to the key securing the microprocessor shall be limited to a supervisor in the slot operations department and that department shall establish a sign out and sign in procedure with regard to this key.

(w) A slot machine must be equipped with a mechanism for detecting and communicating to a slot monitoring system any activity with regard to access to the card cage door securing its microprocessor.

**§ 461a.8. Gaming vouchers.**

(a) A slot machine licensee may utilize gaming vouchers and a gaming voucher system that has been tested and approved by the Board under § 461a.4 (relating to submission for testing and approval).

(b) The design specifications for a gaming voucher, the expiration terms applicable thereto, the voucher verification methodologies utilized and any limitation on the value of a gaming voucher must be in compliance with technical standards on gaming vouchers under § 461b.3 (relating to gaming vouchers).

(c) The design specifications for a gaming voucher system must be in compliance with technical standards on gaming voucher systems under § 461b.3.

(d) Prior to issuing a gaming voucher, a slot machine licensee shall establish a system of internal controls for the issuance and redemption of gaming vouchers. The internal controls shall be submitted and approved by the

Board under § 465.3 (relating to internal control systems and audit protocols) and address:

(1) Procedures for assigning a slot machine's asset number and identifying other redemption locations in the system, and enabling and disabling voucher capabilities for slot machines and redemption locations.

(2) Procedures for issuance, modification and termination of a unique system account for each user in accordance with technical standards under § 461b.3.

(3) Procedures used to configure and maintain user passwords in accordance with technical standards under § 461b.3.

(4) Procedures for restricting special rights and privileges, such as administrator and override capabilities, in accordance with technical standards under § 461b.3.

(5) The duties and responsibilities of the information technology, internal audit, slot operations and finance departments, respectively, and the level of access for each position with regard to the gaming voucher system.

(6) A description of physical controls on all critical hardware such as locks and surveillance, including the location and security protocols applicable to each piece of equipment.

(7) Procedures for the backup and timely recovery of critical data in accordance with technical standards under § 461b.3.

(8) Logs used to document and maintain the details of Board-approved hardware and software modifications upon implementation.

(e) The system of internal controls required to be submitted and approved by the Board under subsection (d) must also include the procedures to be applied in the following instances:

(1) The slot machine licensee chooses to pay a patron the value of a gaming voucher notwithstanding the fact that the gaming voucher system is inoperable rendering it unable to determine the validity of the gaming voucher at the time of payment.

(2) The slot machine licensee chooses to pay a patron the value of a gaming voucher notwithstanding the fact that the gaming voucher system failed to verify and electronically cancel the gaming voucher when it was scanned.

(f) At the end of each gaming day, the gaming voucher system must generate reports and the reports must be provided to the finance department, either directly by the system or through the information technology department. The report, at a minimum, must contain the following information:

(1) A report of all gaming vouchers that have been issued which includes the asset number and the serial number of the slot machine, and the value, date and time of issuance of each gaming voucher.

(2) A report of all gaming vouchers that have been redeemed and cancelled by redemption location, including the asset number of the slot machine or location if other than a slot machine, the serial number, the value, date and time of redemption for each voucher, the total value of all gaming vouchers redeemed at slot machines, and the total value of all gaming vouchers redeemed at locations other than slot machines.

(3) The unredeemed liability for gaming vouchers.

(4) The readings on gaming voucher related slot machine meters and a comparison of the readings to the number and value of issued and redeemed gaming vouchers, as applicable.

(5) Exception reports and audit logs.

(g) A slot machine licensee shall immediately report to the Board evidence that a gaming voucher has been counterfeited, tampered with, or altered in any way which would affect the integrity, fairness, reliability or suitability of the gaming voucher.

(h) Upon presentation of a gaming voucher for redemption at a slot machine, the total value of which gaming voucher cannot be completely converted into an equivalent value of credits that match the denomination of the slot machine, the slot machine must perform one of the following procedures:

(1) Automatically issue a new gaming voucher containing the value that cannot be completely converted.

(2) Not redeem the gaming voucher and immediately return the gaming voucher to the patron.

(3) Allow for the additional accumulation of credits on an odd cents meter or a meter that displays the value in dollars and cents.

(i) A slot machine licensee that utilizes a system or a slot machine that does not print a test gaming voucher that is visually distinguishable from a valid gaming voucher whenever the slot machine is tested on the gaming floor must have in place internal controls approved by the Board under § 465.3 for the issuance of test currency from the cashiers' cage and the return and reconciliation of the test currency and any gaming vouchers printed during the testing process.

(j) Except as provided in subsection (n) with regard to employee redemption of gaming vouchers, a gaming voucher shall be redeemed by a patron for a specific value of cash, slot machine credits, or, at the request of the patron, a check issued by the slot machine licensee in the amount of the gaming voucher surrendered. Notwithstanding the forgoing, a slot machine licensee may not permit a gaming voucher that is presented for redemption to be redeemed if it knows, or has reason to know, that the gaming voucher:

(1) Is materially different from the sample of the gaming voucher approved by the Board.

(2) Was previously redeemed.

(3) Was printed as a test gaming voucher.

(k) Notwithstanding the requirements of subsection (j), if a patron requests to redeem a gaming voucher by mail, the slot machine licensee may effectuate the redemption. However, the gaming voucher may only be redeemed by a cage supervisor in accordance with internal controls approved by the Board under § 465.3, which include the following:

(1) Procedures for using the gaming voucher system to verify the validity of the serial number and value of the voucher, which, if valid, must be immediately cancelled electronically by the system.

(2) Procedures for the issuance of a check equal to the value of the voucher.

(l) Gaming vouchers redeemed at cashiering locations shall be transferred to the finance department on a daily basis. Gaming vouchers redeemed by slot machines shall be counted in the count room and forwarded to the finance department upon the conclusion of the count

process. Gaming vouchers redeemed at automated gaming voucher redemption machines shall be forwarded to finance upon the conclusion of the cashiers' cage reconciliation process. Finance department representatives with no incompatible functions shall perform, at a minimum, the following:

- (1) On a daily basis:
  - (i) Compare gaming voucher system report data to any count room system report data available for that gaming day to ensure proper electronic cancellation of the gaming voucher.
  - (ii) Calculate the unredeemed liability for gaming vouchers, either manually or by means of the gaming voucher system.
- (2) On a weekly basis, compare appropriate slot machine meter readings to the number and value of issued and redeemed gaming vouchers per the gaming voucher system. Meter readings obtained through a slot monitoring system may be utilized to complete this comparison.
- (m) A slot machine licensee shall provide written notice to the Slot Lab of any adjustment to the value of any gaming voucher. The notice shall be made prior to, or concurrent with, the adjustment.
- (n) Employees of a slot machine licensee who are authorized to receive gratuities under § 465.20 (relating to acceptance of tips or gratuities from patrons) may only redeem gaming vouchers given as gratuities at a cashiers' cage. Gaming vouchers valued at more than \$100 shall only be redeemed at the cashiers' cage with the approval of the supervisor of the cashier conducting the redemption transaction.
- (o) A gaming voucher system must be configured to alert a slot machine licensee to any malfunction. Following a malfunction of a system, a slot machine licensee shall notify the Board within 24 hours of the malfunction and may not utilize the system until the malfunction has been successfully eliminated. Notwithstanding the foregoing, the Board may permit a slot machine licensee to utilize the system prior to its being successfully restored, for a period not to exceed 72 hours, provided that:
  - (1) The malfunction is limited to a single storage media device, such as a hard disk drive.
  - (2) In addition to the malfunctioning storage media device, the system contains a backup storage media device not utilized in the normal operation of the system. The backup device must immediately and automatically replace the malfunctioning device to permit a complete and prompt recovery of all information in the event of an additional malfunction.
  - (3) Continued use of the malfunctioning system would not inhibit the ability to perform a complete and prompt recovery of all information, and would not otherwise harm or affect the normal operation of the system.
  - (p) Other than a modification to a gaming voucher system required on an emergency basis to prevent cheating or malfunction and approved by the Board under § 461a.4(m), a modification to a gaming voucher system may not be installed without the gaming voucher system having undergone the testing and approval process required under § 461a.4.

**§ 461a.9. Coupons.**

(a) A slot machine licensee may utilize coupons and a coupon system that has been tested and approved by the Board under § 461a.4 (relating to submission for testing and approval) and complies with technical standards on

coupon systems adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.

(b) The design specifications for a coupon, the expiration terms applicable thereto, the coupon verification methodologies utilized, and any limitation on the value of a coupon must be in compliance with technical standards on coupons adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.

(c) A coupon shall be designed and manufactured with sufficient graphics or other security measures, to permit the proper verification of the coupon. A coupon must contain, at a minimum, the following information:

- (1) The name or trade name of the slot machine licensee. If the slot machine licensee is affiliated with a casino licensee in any other jurisdiction with an identical or similar name or trade name, the name of the Pennsylvania location must be evident on the coupon.
- (2) The value of the coupon, in both numbers and words.
- (3) A unique serial number, which is automatically generated by the system in accordance with this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.
- (4) The locations where the coupon may be redeemed and restrictions regarding redemption.
- (5) An indication of the date on which the coupon becomes invalid.
- (6) A bar code or magnetic strip which enables the coupon system to establish the validity of the coupon and its value in accordance with this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.

(d) Prior to issuing a coupon, a slot machine licensee shall establish a system of internal controls for the issuance and redemption of coupons. The internal controls shall be submitted to, and approved by the Board under § 465.3 (relating to internal control systems and audit protocols).

**§ 461a.10. Automated gaming voucher and coupon redemption machines.**

(a) A slot machine licensee may utilize an automated gaming voucher and coupon redemption machine that has been tested and approved by the Board under § 461a.4 (relating to submission for testing and approval).

(b) Automated gaming voucher and coupon redemption machines may be located on or proximate to the gaming floor of a licensed facility and must be subject to surveillance coverage under § 465.10 (relating to surveillance system; surveillance department control; surveillance department restrictions). Each automated gaming voucher and coupon redemption machine must have imprinted, affixed or impressed on the outside of the machine a unique asset identification number.

(c) An automated gaming voucher and coupon redemption machine must have the capability of establishing the validity of a gaming voucher or coupon by comparing the instrument's unique serial number, automatically generated by the respective gaming voucher or coupon system in accordance with this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website with electronic records within the gaming voucher system or coupon system.

(d) The methods utilized to comply with the requirements of subsection (c) shall be submitted to and approved by the Board under § 461a.4 in the context of the testing of a gaming voucher system or coupon system.

(e) An automated gaming voucher and coupon redemption machine may function as a bill breaker changing bills of one denomination into bills of a smaller denomination.

(f) An automated gaming voucher and coupon redemption machine must contain a lockable gaming voucher, coupon and currency storage box which retains any gaming vouchers, coupons or currency accepted by the machine. The gaming voucher, coupon and currency storage box located inside the machine must also have imprinted, affixed or impressed thereon the asset identification number of the corresponding machine.

(g) An automated gaming voucher and coupon redemption machine must have, at a minimum, the following:

(1) One lock securing the compartment housing the storage box and one lock securing the storage box within the compartment, the keys to which must be different from each other. The key to the lock securing the compartment housing the storage box shall be controlled by the slot operations department. The key to the lock securing the storage box within the compartment shall be controlled by the finance department.

(2) One lock securing the compartment housing the currency cassettes, the key to which shall be controlled by the finance department.

(3) One lock securing the compartment housing the coin storage container, the key to which shall be controlled by the finance department.

(4) One lock securing the contents of the storage box, the key to which must be different from the keys referenced in paragraphs (1)—(3). This key shall be controlled by an employee of the finance department other than the employee controlling the keys referenced in paragraphs (1)—(3).

(h) An automated gaming voucher and coupon redemption machine must be designed to resist forced illegal entry. The slot machine licensee shall secure all input/output ports on an automated gaming voucher and coupon redemption machine.

(i) An automated gaming voucher and coupon redemption machine's currency cassettes must be designed to preclude access to its interior. Access to each currency cassette shall be controlled by the finance department.

(j) Access controls relating to the operating system or applications of the automated gaming voucher and coupon redemption machine, and ancillary systems, applications and equipment associated with the reconciliation thereof, must employ security measures that require authentication of the user and recording and maintaining of data regarding access and modifications made. Authentication must be in accordance with this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.

(k) A gaming voucher or coupon accepted by an automated gaming voucher and coupon redemption machine shall be cancelled immediately upon exchange in a manner that effectively prevents its subsequent redemption by the cashiers' cage, another automated gaming voucher and coupon redemption machine or its acceptance in a slot machine bill validator. The methods utilized to comply with this requirement must be in accordance with

this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.

(l) An automated gaming voucher and coupon redemption machine must be designed to be impervious to outside influences, interference from electro-magnetic, electro-static and radio frequencies and influence from ancillary equipment.

(m) An automated gaming voucher and coupon redemption machine must include a means to protect against transaction failure and data loss due to power loss.

(n) An automated gaming voucher and coupon redemption machine must detect, display and record electronically the following error conditions: power reset; door open; door just closed and system communication loss. These error conditions may be automatically cleared by the automated gaming voucher and coupon redemption machine when the condition no longer exists and upon completion of a new transaction.

(o) An automated gaming voucher and coupon redemption machine must detect, display and record electronically the error conditions in paragraphs (1)—(4). These error conditions must disable the automated gaming voucher and coupon redemption machine and prohibit new transactions and may only be cleared by either the finance department or slot operations department.

(1) Failure to make payment, if the gaming voucher or coupon is not returned and no receipt is issued.

(2) Failure to make complete payment if a receipt for the unpaid amount is not issued.

(3) Bill validator failure.

(4) Printer failure due to printer jam or lack of paper.

(p) An automated gaming voucher and coupon redemption machine must be designed to evaluate whether sufficient funds are available before stacking the voucher and completing the transaction.

(q) An automated gaming voucher and coupon redemption machine must be capable of maintaining synchronization between its real time clock and that of the gaming voucher system and coupon system.

(r) An automated gaming voucher and coupon redemption machine must be equipped with electronic digital storage meters that accumulate the following information. The information must be readily available through system reports. When a value is maintained, the value must be in dollars and cents.

(1) *Physical coin out.* The total value, by denomination, of coins paid by the automated gaming voucher and coupon redemption machine.

(2) *Voucher in—value.* The value of cashable gaming vouchers accepted.

(3) *Voucher in—count.* The number of cashable gaming vouchers accepted.

(4) *Coupon in—value.* The value of cashable coupons accepted.

(5) *Coupon in—count.* The number of cashable coupons accepted.

(6) *Bill in.* The value of currency accepted by the automated gaming voucher and coupon redemption machine. An automated gaming voucher and coupon redemption machine must also have specific meters for each denomination of currency accepted that records the number of bills accepted.



(7) *Bill out.* The total value of currency dispensed. An automated gaming voucher and coupon redemption machine must also provide for specific meters for each denomination of currency dispensed that record the number of bills dispensed.

(8) *Additional requirements.* Other meters as may be required by technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.

(s) An automated gaming voucher and coupon redemption machine must have the capacity to record and retain, in an automated transaction log, all critical transaction history for at least 30 days. Transaction history must include records with the date, time, amount and disposition of each complete and incomplete transaction, error conditions, logical and physical access and attempted access to the automated gaming voucher and coupon redemption machine. If an automated gaming voucher and coupon redemption machine is capable of redeeming multiple vouchers and coupons in a single transaction, the transaction history must include a breakdown of the transaction with regard to the individual gaming vouchers and coupons.

(t) An automated gaming voucher and coupon redemption machine or ancillary systems, applications and equipment associated with the reconciliation thereof, must be capable of producing the following reports upon request:

(1) *Gaming voucher transaction report.* The report must include the disposition (paid, partial pay, unpaid) of gaming vouchers accepted by an automated gaming voucher and coupon redemption machine which must include the validation number, the date and time of redemption, amount requested and the amount dispensed. This information must be available by reconciliation period which may be by day, shift or drop cycle.

(2) *Coupon transaction report.* This report must include the disposition (paid, partial pay, unpaid) of coupons accepted by an automated gaming voucher and coupon redemption machine which must include the unique serial number, the date and time of redemption, amount requested and the amount dispensed. The information must be available by reconciliation period which may be by day, shift or drop cycle.

(3) *Reconciliation report.* The report must include the following:

- (i) Report date and time.
- (ii) Unique asset identification number of the machine.
- (iii) Total cash balance of the currency cassettes.
- (iv) Total count of currency accepted by denomination.
- (v) Total dollar amount of vouchers accepted.
- (vi) Total count of gaming vouchers accepted.
- (vii) Total dollar amount of coupons accepted.
- (viii) Total count of coupons accepted.

(4) *Gaming voucher, coupon and currency storage box report.* The report must be generated, at a minimum, whenever a gaming voucher, coupon and currency storage box is removed from an automated gaming voucher and coupon redemption machine. The report must include the following:

- (i) Report date and time.
- (ii) Unique asset identification number of the machine.

(iii) Unique identification number for each storage box in the machine.

- (iv) Total value of currency dispensed.
- (v) Total number of bills dispensed by denomination.
- (vi) Total dollar value of gaming vouchers accepted.
- (vii) Total count of gaming vouchers accepted.
- (viii) Total dollar value of coupons accepted.
- (ix) Total count of coupons accepted.

(x) Details required to be included in the gaming voucher transaction report required by paragraph (1) and the coupon transaction report required in paragraph (2).

(5) *Transaction report.* The report must include all critical patron transaction history including the date, time, amount and disposition of each complete and incomplete transaction. If an automated gaming voucher and coupon redemption machine is capable of redeeming multiple vouchers or coupons in a single transaction, the transaction history must include a breakdown of the transaction with regard to the individual gaming vouchers and coupons accepted.

**§ 461a.11. Automated gaming voucher and coupon redemption machines: accounting controls.**

Prior to commencing use of an automated gaming voucher redemption machine, an automated coupon redemption machine, bill breaker or some combination thereof, a slot machine licensee shall establish a comprehensive system of internal controls addressing the distribution of currency or coin, or both, to the machines, the removal of gaming vouchers, coupons or currency accepted by the machines and the reconciliations associated therewith. The internal controls shall be submitted to, and approved by the Board under § 465.3 (relating to internal control systems and audit protocols).

**§ 461a.12. Progressive slot machines.**

(a) A progressive slot machine is a slot machine that offers a jackpot that may increase in value based upon wagers as the slot machine is played. A progressive slot machine may stand alone, be linked or interconnected with other progressive slot machines. Progressive slot machines located at a licensed facility that are linked or interconnected with progressive slot machines at another licensed facility are collectively referred to as a wide area progressive system.

(b) A slot machine that offers a progressive jackpot which may increase in value based upon wager and is adjusted and displayed by a device other than the approved program that controls the operation of the slot machine, referred to herein as a progressive controller, must have the following features:

(1) For each progressive jackpot offered by the slot machine, a mechanical, electrical or electronic device, to be known as a progressive meter, visible from the front of the slot machine, which may increase in value based upon wagers, that advises the player of the amount which can be won if the slot machine symbols that award the progressive jackpot appear as a result of activation of play of the slot machine.

(2) A slot machine paid progressive payout meter in accordance with § 461a.7(h) (relating to slot machine minimum design standards).

(3) A slot attendant paid progressive payout meter in accordance with § 461a.7(h).

(4) A cumulative progressive payout meter that continuously and automatically records the total value of progressive jackpots paid directly by the slot machine or by a slot attendant.

(5) A key and key switch to reset the progressive meter or meters or other reset mechanism.

(6) A key locking the compartment housing the progressive meter or meters or other means by which to preclude any unauthorized alterations to the progressive meters. The key or alternative security method must be different than the key or reset mechanism in paragraph (5).

(7) Dual key control by the security department and finance department, or alternative key controls of the compartment housing the microprocessor or other unit that controls the progressive meter or meters. The compartment must be in a secure location.

(c) A slot machine that is connected to a common progressive meter for the purpose of offering the same progressive jackpot on two or more slot machines must:

(1) Have the same probability of hitting the combination that will award the progressive jackpot as every other slot machine linked to the common progressive meter.

(2) Require that the same amount in wager be invested to entitle the player to a chance at winning the progressive jackpot and that each increase in wager increment the progressive meter by the same rate of progression as every other slot machine linked to the common progressive meter.

(3) Have its program or progressive controller that controls the common display for the progressive meter housed in a location and subject to dual key controls approved by the Board.

(d) Notwithstanding the provisions of subsection (c), two or more linked slot machines offering the same progressive jackpot may be of different denominations or have different wagers, or both, required to win the progressive jackpot, provided that:

(1) The probability of winning the progressive jackpot is directly proportional to the wager required to win that jackpot.

(2) A notice indicating the proportional probability of hitting the progressive jackpot on the linked progressive system is conspicuously displayed on each linked slot machine.

(e) A slot machine licensee seeking to utilize a linked slot machine shall submit to the Board for approval the location and manner of installing any progressive meter display mechanism.

(f) A slot machine that offers a progressive jackpot may not be placed on the gaming floor until the slot machine licensee or, as applicable, the slot system operator, has submitted to the Board and the Board has approved, the following:

(1) The initial and reset amounts at which the progressive meter or meters will be set.

(2) The proposed system for controlling the keys and applicable logical access controls to the slot machines.

(3) The proposed rate of progression for each progressive jackpot.

(4) The proposed limit for the progressive jackpot, if any.

(5) The calculated probability of winning each progressive jackpot. The probability may not exceed 50 million to 1. Notwithstanding the foregoing, this paragraph does not apply to a jackpot with a probability that may exceed 50 million to 1 during the game cycle due solely to the intervening occurrence of free play awards between the activation of a play and the award of the jackpot.

(g) Progressive meters may not be turned back to a lesser amount unless one of the following occurs:

(1) The amount indicated has been actually paid to a winning patron.

(2) The progressive jackpot amount won by the patron has been recorded in accordance with a system of internal controls approved under § 465.3 (relating to internal control systems and audit protocols).

(3) The progressive jackpot has, upon Board approval, been transferred to another progressive slot machine or wide area progressive system in accordance with this subpart.

(4) The change is necessitated by a slot machine or meter malfunction, in which case for progressive jackpots governed by subsection (b), an explanation shall be entered on the progressive slot summary required by this subpart and the Board shall be notified of the resetting in writing.

(h) Once an amount appears on a progressive meter, the probability of hitting the combination that will award the progressive jackpot may not be decreased unless the progressive jackpot has been won by a patron or the progressive jackpot has been transferred to another progressive slot machine or wide area progressive system or removed in accordance with subsection (j).

(i) When a slot machine has a progressive meter with digital limitations on the meter, the slot machine licensee shall set a limit on the progressive jackpot not to exceed the display capability of the progressive meter.

(j) A slot machine licensee or, as applicable, a slot system operator, may limit, transfer or terminate a progressive jackpot offered on a gaming floor only under the following circumstances:

(1) A slot machine licensee may establish a payout limit for a progressive jackpot provided that the payout limit is greater than the then current payout amount on the progressive jackpot meter. The slot machine licensee shall provide notice to the Board of the imposition of a payout limit on a progressive meter or a modification thereto concurrent with the setting of the payout limit.

(2) A slot machine licensee may terminate a progressive jackpot concurrent with the winning of the progressive jackpot provided its slot machine program or progressive controller was configured prior to the winning of the progressive jackpot to establish a fixed reset amount with no progressive increment.

(3) A slot machine licensee may immediately and permanently remove one or more linked slot machines from a gaming floor, provided that:

(i) When the slot machine is part of a wide area progressive system offered at multiple licensed facilities, the slot machine licensee retains at least one linked slot machine offering the same progressive jackpot on its gaming floor.

(ii) When the progressive jackpot is only offered in a single licensed facility, at least two linked slot machines offering the same progressive jackpot remain on the gaming floor.

(4) A slot machine licensee may transfer a progressive jackpot amount on a stand alone slot machine or the common progressive jackpot on an entire link of slot machines with a common progressive meter, including a wide area progressive system, from a gaming floor provided the progressive jackpot is:

- (i) Transferred in its entirety.
- (ii) Transferred to one of the following:

(A) The progressive meter for a slot machine or wide area progressive system with the same or greater probability of winning the progressive jackpot, the same or lower wager requirement to be eligible to win the progressive jackpot, and the same type of progressive jackpot (cash, annuity, annuity/cash option or a combination/alternate jackpot). However, if no other slot machine or wide area progressive system meets all of these qualifications, the Board may authorize a transfer of the jackpot to the progressive meter of the most similar slot machine or wide area progressive system available.

(B) The progressive meters of two separate slot machines or wide area progressive systems, provided that each slot machine or wide area progressive system to which the jackpot is transferred individually satisfies the requirements of clause (A).

(iii) Notice of intent to transfer the progressive jackpot is conspicuously displayed on the front of each slot machine for at least 30 days.

(iv) Notice of intent to transfer the progressive jackpot is provided in writing to the Board at least 30 days prior to the transfer of the progressive jackpot.

(5) A slot machine licensee may immediately and permanently remove a progressive jackpot on a stand alone progressive slot machine, the common progressive jackpot on an entire link of slot machines with a common progressive meter or an entire wide area progressive system from a gaming floor provided notice of intent to remove the progressive jackpot is:

(i) Conspicuously displayed on the front of each slot machine for at least 30 days.

(ii) Provided in writing to the Board at least 30 days prior to the removal of the progressive jackpot.

(k) The amount indicated on the progressive meter or meters and coin in meter on each slot machine governed by subsection (b) shall be recorded on a progressive slot summary report at least once every 7 calendar days and each report shall be signed by the preparer. If not prepared by the finance department, the progressive slot summary report shall be forwarded to the finance department by the end of the gaming day on which it is prepared. A representative of the finance department shall be responsible for calculating the correct amount that should appear on a progressive meter. If an adjustment to the progressive meters is necessary, the adjustment shall be made by a member of the slot operations department as follows:

(1) Supporting documentation shall be maintained to explain any addition or reduction in the registered amount on the progressive meter. The documentation must include the date, asset number of the slot machine, the amount of the adjustment and the signatures of the finance department member requesting the adjustment and of the slot operations department member making the adjustment.

(2) The adjustment must be effectuated within 48 hours of the meter reading.

(l) Except as otherwise authorized by this section, a slot machine offering a progressive jackpot that is removed from the gaming floor shall be returned to or replaced on the gaming floor within 5 gaming days. The amount on the progressive meter or meters on the returned or replacement slot machine may not be less than the amount on the progressive meter or meters at the time of removal. If a slot machine offering a progressive jackpot is not returned or replaced, any progressive meter amount at the time of removal shall, within 5 days of the slot machine's removal, be added to a slot machine offering a progressive jackpot approved by the Board which slot machine offers the same or a greater probability of winning the progressive jackpot and requires the same wager or less than the wager required to win the progressive jackpot on the slot machine that was removed. This subsection does not apply to the temporary removal by a slot machine licensee, for a period not to exceed 30 days, of all linked slot machines that are part of a particular wide area progressive system, provided that the progressive jackpot offered by the temporarily removed slot machines remains available on slot machines that are part of the same wide area progressive system in another licensed facility.

(m) Where a slot machine is located adjacent to a slot machine offering a progressive jackpot, the slot machine licensee shall conspicuously display on the slot machine a notice advising patrons that the slot machine is not participating in the progressive jackpot of the adjacent slot machine.

**§ 461a.13. Wide area progressive systems.**

(a) Two or more slot machine licensees may, with the prior written approval of the Board as required under subsection (c), operate linked progressive slot machines that are interconnected between two or more participating licensed facilities. The slot machines participating in the link shall be collectively referred to as wide area progressive system.

(b) A wide area progressive system shall at all times be installed and operated in accordance with relevant requirements of the act, this subpart and technical standards on wide area progressive systems under § 461b.4 (relating to wide area progressive systems).

(c) A wide area progressive system shall be operated and administered by participating slot machine licensees in accordance with the terms and conditions of a written agreement executed by the participating slot machine licensees. The agreement shall be referred to as a slot system agreement. Slot system agreements must be submitted in writing and approved by the Board prior to implementation and comply with the act, this subpart and technical standards on wide area progressive systems under § 461b.4.

(d) Slot machine licensees participating in a slot system agreement may delegate, in whole or in part, the operation and administration of a wide area progressive system to a licensed manufacturer provided that the slot system agreement is executed by the licensed manufacturer and its express terms are approved by the Board. The persons designated in a slot system agreement as being responsible for the operation and administration of a wide area progressive system shall be referred to as the slot system operator.

(e) An agreement between a licensed manufacturer and a slot machine licensee under which a licensed manufacturer sells, leases or services a wide area progressive system will not constitute a slot service agreement unless

the agreement also covers operation and administration of the wide area progressive system.

(f) Slot system agreements must address:

(1) Details with regard to the terms of compensation for the slot system operator. In specific, the agreement must address to what extent, if any, the slot system operator is receiving compensation based, directly or indirectly, on an interest, percentage or share of a slot machine licensee's revenue, profits or earnings from the operation of the wide area progressive system.

(2) Responsibility for the funding and payment of all jackpots, fees and gross terminal revenue taxes associated with the operation of the wide area progressive system.

(3) Control and operation of the computer monitoring room required under subsection (g).

(4) Other requirements in the technical standards on wide area progressive systems under § 461b.4.

(g) A wide area progressive system shall be controlled and operated from a computer monitoring room. The computer monitoring room must:

(1) Be under the sole possession and control of, and maintained and operated by, employees of the slot system operator designated in the slot system agreement for that system. The employees of the slot system operator may be required to obtain a license or permit if the Board determines, after a review of the work being performed, the employees require a license or permit for the protection of the integrity of gaming.

(2) Have its monitoring equipment subjected to surveillance coverage either by the surveillance system of a slot machine licensee participating in the slot system agreement or by a dedicated surveillance system maintained by the slot system operator. Surveillance coverage must be in accordance with technical standards under § 461b.4.

(3) Be accessible through a locked door. The door must be alarmed in a manner that audibly signals the surveillance monitoring room for the surveillance system elected under paragraph (2).

(4) Have a computer monitoring room entry log. The log must be:

(i) Kept in the computer monitoring room.

(ii) Maintained in a book with bound numbered pages that cannot be readily removed.

(iii) Signed by each person entering the computer monitoring room who is not an employee of the slot system operator expressly employed in the computer monitoring room on his assigned shift. Entries must contain:

(A) The date and time of entering and exiting the room.

(B) The name, department or employer, when applicable, license number of the person entering and exiting the room and of the person authorizing the entry.

(C) The reason for entering the computer monitoring room.

(5) Reside within a participating licensed facility or other location.

#### § 461a.14. Slot monitoring systems.

(a) A slot machine licensee may utilize a slot monitoring system which has an interface between it and slot machines and related systems that has been tested and

approved by the Board under § 461a.4 (relating to submission for testing and approval).

(b) A slot monitoring system must comply with the act, this subpart and technical standards on slot monitoring systems adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.

#### § 461a.15. Casino management systems.

(a) A slot machine licensee may utilize a casino management system which has an interface between it and slot machines and related systems tested and approved by the Board under § 461a.4 (relating to submission for testing and approval).

(b) A casino management system must comply with the act, this subpart and technical standards on casino management systems adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.

#### § 461a.16. Player tracking systems.

(a) A slot machine licensee may utilize a player tracking system which has an interface between it and slot machines and related systems tested and approved by the Board under § 461a.4 (relating to submission for testing and approval).

(b) A player tracking system must comply with the act, this subpart and technical standards on player tracking systems adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.

#### § 461a.17. External bonusing systems.

(a) A slot machine licensee may utilize an external bonusing system that has been tested and approved by the Board under § 461a.4 (relating to submission for testing and approval).

(b) The combination of the slot machine theoretical payout percentage plus the bonus awards generated by an external bonusing system cannot equal or exceed 100% of the theoretical payout for a slot machine on which the external bonus award is available.

(c) A slot machine connected to an external bonusing system must satisfy the minimum theoretical payout percentage required under this subpart without the contribution of any external bonus award available on the slot machine.

(d) An external bonusing system must comply with the act, this subpart and technical standards on external bonusing systems adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.

#### § 461a.18. Cashless funds transfer systems.

(a) A slot machine licensee may utilize a cashless funds transfer system that has been tested and approved by the Board under § 461a.4 (relating to submission for testing and approval).

(b) A cashless funds transfer system must comply with the act, this subpart and technical standards on cashless funds transfer systems adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.

(c) Prior to utilizing a cashless funds transfer system, a slot machine licensee shall establish a system of internal controls applicable to the cashless funds transfer system. The internal controls shall be submitted to and approved by the Board under § 465.3 (relating to internal control systems and audit protocols). The internal control proce-

dures submitted by the slot machine licensee must address the integrity, security and control of its cashless funds transfer system and include:

- (1) An overview of the system design.
- (2) System access controls and restrictions.
- (3) Override policies and restrictions.
- (4) Backup and recovery procedures.
- (5) Logical and physical access controls and restrictions.
- (6) Network security.
- (7) Procedures for handling customer disputes.

(d) Transfer of electronic credits to a slot machine under this section shall be initiated by a patron using an access control. Access controls must require the use of a unique access code for each patron. The access code shall be selected by and only available to the patron.

(e) A record of every transfer of electronic credits to a slot machine under this section shall be maintained by the slot machine licensee and shall be identified by, at a minimum, the date, time and the asset number of the slot machine to which the transfer occurred and an identification number assigned to the patron who initiated the transaction. The identification number assigned to a patron for the purposes of this section must be different from the unique access code selected by the patron as part of an access control.

(f) On at least a monthly basis, a slot machine licensee using a cashless funds transfer system shall provide a statement to a patron who has participated in the system that month. The statement must include, at a minimum, the patron's beginning monthly balance, credits earned, credits transferred to a slot machine pursuant to this section and the patron's monthly ending balance. With the written authorization of the patron, the mailing of a monthly statement may be omitted or be issued electronically to the patron. Notwithstanding the foregoing, a monthly statement is not required for transfers of temporary electronic credits or transfers of electronic credits from a temporary anonymous account.

(g) A slot machine licensee shall notice the Slot Lab in writing of any adjustment to the amount of a credit transferred to a slot machine by means of a cashless funds transfer system. The notice shall be made on or before the date of adjustment.

**§ 461a.19. Remote system access.**

(a) In emergency situations or as an element of technical support, an employee of a licensed manufacturer may perform analysis of, or render technical support with regard to, a slot machine licensee's slot monitoring system, casino management system, player tracking system, external bonusing system, cashless funds transfer system, wide area progressive system, gaming voucher system or other Board-approved system from a remote location.

(b) Remote system access shall be performed in accordance with technical standards on remote system access under § 461b.5 (relating to remote computer access).

(c) A slot machine licensee authorizing access to a system by a licensed manufacturer under this section shall be responsible for implementing a system of access protocols and other controls over the physical integrity of that system and the remote access process sufficient to insure appropriately limited access to software and the system wide reliability of data.

**§ 461a.20. Server supported slot systems.**

(a) The following terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

*Server supported slot machine*—A slot machine connected to, and administered by, a server supported slot system.

*Slot machine server*—A computer configured to:

(i) Receive, store, authenticate and download to server supported slot machines Board-approved slot machine games and other approved software. A slot machine server may also be used to effect changes in a server supported slot machine's configuration.

(ii) Receive, store and authenticate Board-approved slot machine games and other approved software for use on server based slot machines.

*Server supported slot system*—A system comprised of one or more server supported slot machines connected to a slot machine server and its ancillary computer network for the ultimate purpose of downloading Board-approved slot machine games and other approved software to server supported slot machines.

(b) A slot machine licensee may utilize a server supported slot system that has been tested and approved by the Board under § 461a.4 (relating to submission for testing and approval).

(c) A server supported slot system must comply with the act, this subpart and technical standards on server supported slot systems adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.

(d) Results from the play or operation of a server supported slot machine connected to a server supported slot system must be determined solely by the individual server supported slot machine and not by the server supported slot machine server or any other ancillary computer network.

(e) Prior to utilizing a server supported slot system, a slot machine licensee shall establish a system of internal controls applicable to the server supported slot system. The internal controls shall be submitted to and approved by the Board under § 465.3 (relating to internal control systems and audit protocols). The internal control procedures submitted by the slot machine licensee must address the integrity, security and control of the server supported slot system.

**§ 461a.21. Server based slot systems.**

(a) The following terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

*Server based slot machine*—A slot machine accessing a server based slot system.

*Slot machine server*—A computer configured to:

(i) Receive, store, authenticate and download to server supported slot machines Board-approved slot machine games and other approved software. A slot machine server may also be used to effect changes in a server supported slot machine's configuration.

(ii) Receive, store and authenticate Board-approved slot machine games and other approved software for use on server based slot machines.

*Server based slot system*—A system comprised of one or more server based slot machines connected to a server

based slot machine server and its ancillary computer network for the purpose of facilitating access by a server based slot machine to Board-approved slot machine games and other approved software residing on the server based slot machine server.

(b) A slot machine licensee may utilize a server based slot system that has been tested and approved by the Board under § 461a.4 (relating to submission for testing and approval).

(c) A server based slot system must comply with the act, this subpart and technical standards on server based slot systems adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.

(d) Results from the play or operation of a server based slot machine must be determined solely by the server based slot machine server and not by the individual server based slot machine.

(e) Prior to utilizing a server based slot system, a slot machine licensee shall establish a system of internal controls applicable to the server based slot system. The internal controls shall be submitted to and approved by the Board under § 465.3 (relating to internal control systems and audit protocols). The internal control procedures submitted by the slot machine licensee must address the integrity, security and control of its server based slot system.

**§ 461a.22. Automated jackpot payout machines.**

(a) A slot machine licensee may utilize an automated jackpot payout machine that has been tested and approved by the Board under § 461a.4 (relating to submission for testing and approval).

(b) An automated jackpot payout machine must comply with the act, this subpart and technical standards on automated jackpot payout machines adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.

(c) Prior to commencing use of an automated jackpot payout machine, a slot machine licensee shall establish a comprehensive system of internal controls addressing the payment of jackpot payouts utilizing an automated jackpot payout machine and the distribution of currency or coin, or both, to the machines. The internal controls shall be submitted to, and approved by the Board under § 465.3 (relating to internal control systems and audit protocols).

**§ 461a.23. Slot machines and associated equipment utilizing alterable storage media.**

(a) *Definition.* The following term, when used in this section, has the following meaning, unless the context clearly indicates otherwise:

*Alterable storage media*—

(i) Memory or other storage medium, such as an EEPROM, flash, optical or magnetic storage device, that is contained in a slot machine or associated equipment subject to approval under § 461a.4 (relating to submission for testing and approval), that allows the modification of programs or data on the storage media during the normal operation of the slot machine or associated equipment.

(ii) The term does not include:

(A) Memory or other storage medium typically considered to be alterable but through either software or

hardware means approved by the Board have been rendered unalterable and remain verifiable by the central control computer system.

(B) Associated equipment using alterable storage media that the Board determines are incapable of influencing the integrity or outcome of game play.

(b) *Use of alterable storage media.* Any use of alterable storage media in a slot machine or associated equipment must be in compliance with the act, this subpart and technical standards on alterable storage media adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.

**§ 461a.24. Waivers.**

(a) The Board may, on its own initiative, waive one or more of the requirements in this chapter or the technical standards applicable to slot machines and associated equipment adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website upon a determination that the nonconforming slot machine or associated equipment or modification as configured meets the operational integrity requirements of the act, this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.

(b) A manufacturer may submit a written request to the Board for a waiver for one or more of the requirements in this chapter or the technical standards applicable to slot machines and associated equipment adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website. The request must include supporting documentation demonstrating how the slot machine or associated equipment for which the waiver has been requested will still meet the operational integrity requirements of the act, this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.

**§ 461a.25. Disputes.**

(a) If a dispute arises with a patron concerning payment of alleged winnings, the slot machine licensee shall provide the patron with a Board Patron Dispute/Complaint Form and Instructions for Submitting a Patron Dispute/Complaint.

(b) When a slot machine licensee refuses to pay winnings claimed by a patron and the patron and the slot machine licensee remain unable to resolve the dispute after 7 days, the slot machine licensee shall, on the next day, notify the Board in writing of the dispute in a manner and form the Board prescribes. The notice must identify the parties to the dispute and shall state the known relevant facts regarding the dispute.

**§ 461a.26. Testing and software installation on the live gaming floor.**

(a) Prior to the testing of slot machines, associated equipment and displays on a live gaming floor during a slot machine licensee's normal hours of operation, the slot machine licensee shall notify the Board's Gaming Lab in writing at least 72 hours prior to the test date. The notification must include the following:

(1) A detailed narrative description of the type of testing to be conducted, including the reason for the testing, a list of individuals conducting the testing and the slot machine licensee's procedures for conducting the testing.

(2) The date, time and approximate duration of the testing.

(3) The model, slot machine location number and asset number of the slot machine or machines to be tested.

(4) The location within the licensed facility where the testing will occur.

(b) A slot machine licensee shall notify the Board's Gaming Lab at least 72 hours prior to the installation of any new software or the installation of any change in previously approved software for:

- (1) Automated gaming voucher and coupon redemption machines.
- (2) Wide area progressive systems.
- (3) Slot monitoring systems.
- (4) Casino management systems.
- (5) Player tracking systems.
- (6) External bonusing systems.
- (7) Cashless funds transfer systems.
- (8) Server supported slot systems.
- (9) Server based slot systems.
- (10) Automated jackpot payout machines.

(c) The notification required under subsection (b) must include:

- (1) A description of the reasons for the new installation or change in previously approved software.
- (2) A list of the computer components and programs or versions to be modified or replaced.
- (3) A description of any screens, menus, reports, operating processes, configurable options or settings that will be affected.
- (4) The method to be used to complete the proposed installation.
- (5) The date that the proposed modification will be installed and the estimated time for completion.
- (6) The name, title and employer of the persons performing the installation.
- (7) A diagrammatic representation of the proposed hardware design change.
- (8) Restrictions on "update" access to the production code to the person implementing the installation.
- (9) Procedures to ensure that user and operator manuals are updated to reflect changes in policies and procedures resulting from the proposed installation.

**CHAPTER 461b. TECHNICAL STANDARDS—STATEMENT OF POLICY**

**§ 461b.1. Slot machine minimum design standards.**

(a) Slot machine volatility shall be calculated based on a 95% confidence interval. Volatility calculations must utilize the following when calculating the lowest payout percentage available for each slot machine game:

- (1) The aggregate variance is the sum of the probability of every winning combination multiplied by the square of the corresponding payout.
- (2) The standard deviation is the square root of the difference between the aggregate variance of paragraph (1) and the square of the lowest payout percentage.
- (3) The volatility index is 1.96 multiplied by the standard deviation calculated in paragraph (2).
- (4) The approach percentage is the difference between the lowest payout percentage and 84.999%.

(5) The volatility, calculated as the number of plays to equal or exceed the minimum payout requirement of 85%, is the square of the quotient obtained when the volatility index found in paragraph (3) is divided by the approach percentage found in paragraph (4).

(6) The volatility calculated in paragraph (5) may not exceed 10,000,000 plays.

(b) Each slot machine approved for use in a licensed facility must be configured to wager credits available for play in the following order:

- (1) Noncashable credits.
- (2) Cashable credits.

**§ 461b.2. Slot machine tower lights and error conditions.**

(a) Unless otherwise authorized by the Board, each slot machine must have a tower light located on top of the slot machine cabinet. The tower light must be used to identify the slot machine's default denomination and the operational status of the slot machine and any device connected thereto that may affect the operation of the slot machine. The slot machine tower light must be visible to the player of the slot machine and to the surveillance department from all sides of the slot machine cabinet, unless the slot machine cabinet is against a wall or is in another location approved by the Board that results in the partial obstruction of the tower light.

(b) A slot machine tower light must consist of two separate lights, one on top of the other, that function in accordance with this section.

(1) At any point in time, each of the two lights may be in one of five states as follows:

- (i) "Off" means the light is off.
- (ii) "On" means the light is on continually.
- (iii) "Slow flash" means the light is flashing regularly at a 500 millisecond interval.
- (iv) "Medium flash" means the light is flashing regularly at a 250 millisecond interval.
- (v) "Fast flash" means the light is flashing regularly at a 125 millisecond interval.

(2) The top light of the two lights must be white. The color of the bottom light must indicate the default denomination of the slot machine to which it is attached:

- (i) Red means a dime denomination slot machine or any denomination below a dime.
- (ii) Yellow means a quarter denomination slot machine.
- (iii) Orange means a half-dollar denomination slot machine.
- (iv) Blue means \$1 denomination slot machine.
- (v) Pink means a \$2 denomination slot machine.
- (vi) Green means a \$5 denomination slot machine.
- (vii) Purple means a \$10 or higher denomination slot machine.

(3) A slot machine licensee may, with the approval of the Board, utilize an alternative color scheme for the bottom light of the slot machine tower light in paragraph (2). The alternative color scheme may include:

- (i) Assignment of a unique color to identify any single denomination or combination of denominations of slot machines in paragraph (2)(i) provided that the 5c denomi-

nation or any combination that includes the 5¢ denomination will always be the color red.

(ii) Assignment of a unique color to identify any single denomination or combination of denominations of slot machines in paragraph (2)(vii) provided that the \$100 denomination or any combination that includes the \$100 denomination will always be the color purple.

(iii) Assignment of the color yellow to identify all 25¢ and 50¢ denomination slot machines.

(iv) Assignment of the color blue to identify combinations of all \$1 and \$2 denomination slot machines or all \$1, \$2 and \$5 denomination slot machines.

(c) For the purposes of this subsection, there shall be three separate methods by which a slot machine is placed in an unplayable state.

(1) "Administrative mode" means that a member of the slot operations department has placed the slot machine in an unplayable state to access the set up or recall functions of the slot machine.

(2) "Disabled mode" means that a member of the slot operations department or the slot machine licensee's slot monitoring system has placed the slot machine in an unplayable state for any reason other than those included in administrative mode.

(3) "Tilt mode" means that the slot machine placed itself in an unplayable state due to malfunction or error condition and the slot machine cannot be returned to a playable state without intervention by a member of the slot operations department.

(d) Each of the following combinations of light states must be displayed by a slot machine tower light to indicate the corresponding slot machine operating condition:

(1) White light off with colored light:

(i) Off means that the slot machine is idle and the slot machine door is closed.

(ii) Medium flash means the slot machine is idle and the slot machine door is open.

(iii) Fast flash means the slot machine is idle and the drop compartment door is open.

(2) White light on with colored light:

(i) Off means a patron is requesting change and the slot machine door is closed.

(ii) On means that the slot machine is in disabled mode.

(iii) Medium flash means either:

(A) A patron is requesting change and the slot machine door is open.

(B) The slot machine is in disabled mode and the slot machine door is open.

(iv) Fast flash means the slot machine is in disabled mode and the drop compartment door is open.

(3) White light slow flash with colored light:

(i) Off means that the slot machine is in tilt mode and the slot machine door is closed.

(ii) Slow flash means either:

(A) The slot machine is displaying a hand-paid jackpot combination and the slot machine door is closed.

(B) The slot machine is displaying a hand-paid jackpot combination while in tilt mode and the slot machine door is closed.

(iii) Medium flash means either:

(A) The slot machine is displaying a hand-paid jackpot combination and the slot machine door is open.

(B) The slot machine is in tilt mode and the slot machine door is open.

(iv) Fast flash means the slot machine is in tilt mode and the drop compartment door is open.

(4) White light fast flash with colored light:

(i) Off means the slot machine is in administrative mode and the slot machine door is closed.

(ii) Medium flash means the slot machine is in administrative mode and the slot machine door is open.

(iii) Fast flash means the slot machine is in administrative mode and the drop compartment door is open.

(e) Any combination of light states capable of display by a slot machine tower light that is not assigned a particular slot machine operating condition by subsection (d) may be used by the slot machine licensee for its own internal signals. However, the slot machine licensee shall be required to conform the light states displayed by its slot machine tower lights to any amendments or modifications in the Board's approved technical standards.

(f) A slot machine must detect, display by means of a tower light or other device and the slot machine must communicate to a slot monitoring system the error conditions in paragraphs (1)—(3) in both idle state and during game play. These error conditions may be automatically cleared by the slot machine upon completion of a new play sequence.

(1) Power reset.

(2) Door open.

(3) Door just closed.

(g) A slot machine must detect, display by means of tower light or other device and the slot machine must communicate to a slot monitoring system the error conditions in paragraphs (1)—(8) in both idle state and during game play. These error conditions must disable the slot machine and prevent game play and may only be cleared by a slot attendant.

(1) Low RAM battery.

(2) Printer failure.

(3) Printer mechanism paper jam. A paper jam condition must be monitored at all times during the print process.

(4) Presentation error.

(5) Program error or defective program storage media.

(6) Reel spin error of any type. The specific reel number must be identified. If a tilt occurs while the reels are spinning, the slot machine must spin the reels at a slow speed.

(7) Removal of control program storage media.

(8) Uncorrectable RAM error, either RAM defective or corrupted.

(h) A slot machine must detect, display by means of tower light or other device and the slot machine must communicate to a slot monitoring system the error conditions in paragraphs (1) and (2) in both idle state and



during game play. These error conditions need not disable the slot machine and game play may continue if an alternative method is available to complete the transaction or the condition does not prohibit the transaction from being completed. These error conditions may only be cleared by a slot attendant.

- (1) Printer mechanism paper level is low.
- (2) Printer mechanism out of paper.

(i) A description of the slot machine error code corresponding to each error condition must be affixed inside each slot machine unless the displayed slot machine error code is self-explanatory.

(j) The Board may waive one or more of the technical standards applicable to tower lights and error conditions adopted by the Board upon a determination that the nonconforming communication methodology nonetheless meets the operational integrity requirements of the act, this part and technical standards adopted by the Board.

**§ 461b.3. Gaming vouchers.**

(a) A gaming voucher must expire in not less than 180 days from the date of issuance.

(b) Each gaming voucher must be designed and manufactured with sufficient graphics or other security measures, to permit, to the greatest extent possible, the proper verification of the voucher. Notwithstanding the forgoing, each gaming voucher must contain the following information:

(1) The name or trade name of the slot machine licensee, and if the slot machine licensee is affiliated with a casino licensee in any other jurisdiction with an identical or similar name or trade name, the name of the Pennsylvania location must be evident on the voucher.

(2) The date and time of issuance.

(3) The value of the voucher, in both numbers and words.

(4) A unique serial number, which is automatically generated by the system in accordance with this part and technical standards adopted by the Board.

(5) The asset number of the slot machine dispensing the voucher.

(6) At least one anticounterfeiting measure, which appears on one or both sides of the voucher.

(7) The locations where the voucher may be redeemed and any restriction regarding redemption.

(8) A bar code or magnetic strip which enables the system to identify the numeric information in paragraphs (1)—(5) when the voucher is subsequently presented for redemption.

(c) A gaming voucher system may not be configured to issue a gaming voucher exceeding \$10,000.

(d) Any system of internal controls over the issuance and redemption of gaming vouchers must provide for the following:

(1) Upon the presentation of a gaming voucher for redemption, the slot cashier or slot machine shall use the gaming voucher system to verify the validity of the serial number and value of the voucher, and if valid, the system must immediately cancel the voucher electronically and permit the redemption of the voucher for the value printed thereon. Prior to the redemption of a gaming voucher, the complete serial number of the unredeemed gaming voucher must only be available to the system.

(2) The slot machine licensee shall maintain a record of all transactions in the gaming voucher system for at least 210 days from the date of the transaction.

(3) Notwithstanding paragraph (2), the slot machine licensee shall maintain an unredeemed gaming voucher record containing the information required in subsection (b)(1)—(5), for gaming vouchers that were issued but not redeemed prior to expiration. The record shall be stored in the system for a period of time approved by the Board, which must be at least 1 year from the date of issuance of the gaming voucher, provided that:

(i) Any unredeemed gaming voucher record removed from the system after 1 year shall be stored and controlled in a manner approved by the Board.

(ii) Any unredeemed gaming voucher record removed from the system is subject to the standard record retention provisions of this part.

(e) Each gaming voucher system must perform the following functions to control logical access to the system:

(1) Generate daily monitoring logs of user access, security incidents and unusual transactions, and immediately notify the information technology department of critical security incidents and unusual transactions.

(2) Be capable of assigning rights and privileges to each user, including:

(i) The secure administration of a unique system account for each user to provide an adequate segregation of duties.

(ii) Adequate password parameters such as lockout, minimum length and expiration interval.

(3) Use appropriate access permissions to restrict unauthorized users from viewing, changing or deleting critical files and directories.

(4) Utilize encryption for files and directories containing critical or sensitive data, which must include the unredeemed gaming voucher record. Notwithstanding the foregoing, in lieu of utilizing encryption for files and directories containing critical or sensitive data, the slot machine licensee shall design and implement internal controls to restrict users from viewing the contents of such files and directories, which internal controls shall provide for the following:

(i) The effective segregation of duties and responsibilities with regard to the system in the information technology department.

(ii) The automatic monitoring and recording by the system of access by any person to the files and directories.

(f) Each gaming voucher system must perform the following functions to control system operations:

(1) Generate daily monitoring logs and alert messages for system performance, hardware problems and software errors.

(2) Authenticate the identity of a slot machine or other redemption location from which a transmission of data is received.

(3) Ensure that all data sent through a transmission is completely and accurately received.

(4) Detect the presence of corrupt or lost data packets and, as necessary, reject the transmission.

(5) Utilize an appropriate cryptographic system for critical transmissions of data, such as:

(i) Transmissions that include a gaming voucher serial number.

(ii) Slot machine meter information.

(iii) Other information used in the calculation or verification of gross revenue.

(g) Each gaming voucher system must perform the following functions to control the integrity of data:

(1) Cause a unique serial number to be generated for each gaming voucher which series number must:

(i) Be comprised of at least 18 numbers, symbols or characters.

(ii) Contain at least three numbers, symbols or characters, randomly generated in a manner approved by the Board, designed to prevent a person from being able to predict the serial number of any other gaming voucher.

(iii) Contain at least one number, symbol or character unique to gaming vouchers, to visually differentiate gaming vouchers from coupons.

(iv) Be printed in at least two locations on each gaming voucher.

(2) Validate the data type and format of all inputs to critical fields and reject any corrupt data.

(3) Provide for the automatic and independent recordation of critical data upon gaming voucher generation and redemption including the details required to be printed on a gaming voucher under this part.

(4) Provide for verification of the information contained on a gaming voucher presented for redemption and the unredeemed gaming voucher record to a source that separately records and maintains transaction data, such as an automated transaction log, or other compensating procedure as approved by the Board. The procedure must:

(i) Independently verify the accuracy of the gaming voucher serial number and value prior to redeeming the gaming voucher.

(ii) Not be used to satisfy other requirements of this chapter.

(5) Segregate all security critical system programs, files and directories from other programs and files and directories contained in the system.

(h) Each gaming voucher system must be equipped with the following to address continuity:

(1) Data redundancy, such as disk mirroring, which writes a complete and duplicate copy of all data on the primary disk to a secondary disk as it occurs, to permit a complete and prompt recovery of all information in the event of any malfunction.

(2) Environmental protection, such as an uninterruptible power supply, and fireproof and waterproof materials designed to protect critical hardware from a natural disaster.

(3) A backup capability, which enables the slot machine licensee to create periodic backup copies of files and data on a removable storage device, such as magnetic tape, which is separate from the devices required in accordance with paragraph (1).

(i) The Board may waive one or more of the technical standards applicable to gaming vouchers adopted by the Board upon a determination that the gaming voucher system as configured nonetheless meets the operational integrity requirements of the act, this part and technical standards adopted by the Board.

#### § 461b.4. Wide area progressive systems.

(a) Each slot system agreement providing for the operation and administration of a wide area progressive system must identify and describe with specificity the duties, responsibilities and authority of each participating slot machine licensee and each slot system operator including:

(1) Details with regard to the terms of compensation for the slot system operator. In specific, the agreement must address to what extent, if any, the slot system operator is receiving compensation based, directly or indirectly, on an interest, percentage or share of a slot machine licensee's revenue, profits or earnings from the operation of the wide area progressive system.

(2) Responsibility for the funding and payment of all jackpots, fees and gross terminal revenue taxes associated with the operation of the wide area progressive system.

(3) Control and operation of the computer monitoring room required under § 461a.13 (relating to wide area progressive systems).

(4) A description of the process by which significant decisions with regard to the operation of the wide area progressive system are approved and implemented by the participating slot machine licensees and slot system operator.

(5) When applicable, terms satisfactory to the Board with regard to apportionment of responsibility for establishing and servicing any trust agreement associated with any annuity jackpot offered by the wide area progressive system.

(6) Responsibility for generating, filing and maintaining the records and reports required under the act, this part and technical standards adopted by the Board.

(7) Other requirements of the Board, including those required to comply with technical standards on wide area progressive systems adopted by the Board.

(b) A slot system agreement submitted to the Board for approval must be accompanied by a proposed system of internal controls addressing:

(1) Transactions directly or indirectly relating to the payment of progressive jackpots including the establishment, adjustment, transfer or removal of a progressive jackpot amount and the payment of any fees or taxes associated therewith.

(2) The name, employer, position and gaming license status of any person involved in the operation and control of the wide area progressive system.

(c) The Board will review the persons identified in subsection (b)(2) and determine, based on an analysis of specific duties and responsibilities, which persons will be licensed to what level in this Commonwealth. The Board will advise the slot system operator of its findings. The participating slot machine licensees and any participating licensed manufacturer shall comply with the Board's licensing instructions.

(d) A slot system operator may not commence operation and administration of a wide area progressive system pursuant to the terms of a slot system agreement until the agreement itself and the internal controls required under subsection (b) have been approved in writing by the Board and any licensing requirements under subsection (c) have been complied with.

(e) When a slot system agreement involves payment to a licensed manufacturer, functioning as a slot system

operator, of an interest, percentage or share of a slot machine's licensee's revenue, profits or earnings from the operation of a wide area progressive system, the Board may only approve the slot system agreement when it determines that the total amounts paid to the licensed manufacturer under the terms of the agreement are commercially reasonable for the operational and administrative services provided. Nothing herein limits the Board's consideration of the slot system agreement to its revenue sharing provisions.

(f) In evaluating a proposed location for a computer monitoring room, the Board may consider the level of physical and system security offered by the proposed location and the accessibility of the location to the audit, investigative and technical staffs of the Board, the Department and Pennsylvania State Police.

(g) Each party to a slot system agreement shall only be liable for acts, omissions and violations of the act, this part or technical standards adopted by the Board related to its own individual duties and responsibilities under the slot system agreement, unless the slot system agreement specifically provides for joint and several liability.

(h) The Board may waive one or more of the technical standards applicable to wide area progressive systems adopted by the Board upon a determination that the wide area progressive system as configured nonetheless meets the operational integrity requirements of the act, this part and technical standards adopted by the Board.

**§ 461b.5. Remote computer access.**

(a) In emergency situations or as an element of technical support, an employee of a licensed manufacturer may perform analysis of, or render technical support with regard to, a slot machine licensee's slot monitoring system, casino management system, player tracking system, external bonusing system, cashless funds transfer system, wide area progressive system, gaming voucher system or other approved system from a remote location. Any remote access to these systems shall be performed in accordance with the following procedures:

(1) Only an employee of a licensed manufacturer who is licensed as a gaming employee or key employee in this Commonwealth may remotely access a system sold, leased or otherwise distributed by that licensed manufacturer for use at a licensed facility.

(2) The slot machine licensee shall establish a unique system account for each employee of a licensed manufacturer identified by his employer as potentially required to perform technical support from a remote location. Any system access afforded pursuant to this section must:

(i) Be restricted in a manner that requires the slot machine licensee's information technology department to receive prior notice from the licensed manufacturer of its intent to remotely access a designated system.

(ii) Require the slot machine licensee to take affirmative steps, on a per access basis, to activate the licensed manufacturer's access privileges.

(iii) Be designed to appropriately limit the ability of any person authorized under this section to deliberately or inadvertently interfere with the normal operation of the system or its data.

(3) A log shall be maintained by both the licensed manufacturer and the slot machine licensee's information technology department. Each of the two logs must contain, at a minimum, the following information:

(i) The system accessed, including manufacturer and version number.

(ii) The type of connection (that is, leased line, dial in modem or private WAN).

(iii) The name and license number of the employee remotely accessing the system.

(iv) The name and license number of the information technology department employee activating the licensed manufacturer's access to the system.

(v) The date, time and duration of the connection.

(vi) The reason for the remote access including a description of the symptoms or malfunction prompting the need for remote access to the system.

(vii) Any action taken or further action required.

(4) Communications between the licensed manufacturer and any of the systems identified in subsection (a) shall occur using a dedicated and secure communication facility such as a leased line approved in writing by the Board.

(b) Any modification of, or remedial action taken with respect to, an approved system must be processed and approved by the Board either in accordance with the emergency modification provisions of § 461a.4(l) (relating to submission for testing and approval) or as a standard modification submitted under § 461a.4(h).

(c) If an employee of a licensed manufacturer is no longer employed by, or authorized by, that manufacturer to remotely access a system pursuant to this section, the licensed manufacturer shall immediately notify the Board's Slot Lab and each slot machine licensee that has established a unique system account for that employee of the change in authorization and shall timely verify with each slot machine licensee that any access privileges previously granted have been revoked.

(d) The Board may waive one or more of the technical requirements applicable to remote computer access adopted by the Board upon a determination that the nonconforming remote access procedures nonetheless meet the integrity requirements of the act, this part and technical standards adopted by the Board.

**CHAPTER 463. (Reserved)**

**§§ 463.1—463.6. (Reserved).**

**CHAPTER 463a. POSSESSION OF SLOT MACHINES**

Sec.	
463a.1.	Possession of slot machines generally.
463a.2.	Transportation of slot machines into, within and out of this Commonwealth.
463a.3.	Slot machine location.
463a.4.	Connection to the central control computer system.
463a.5.	Slot machine master list.
463a.6.	Notice to central control computer system.
463a.7.	Off premises storage of slot machines.

**§ 463a.1. Possession of slot machines generally.**

(a) Except as otherwise provided in this section and 18 Pa.C.S. § 5513 (relating to gambling devices, gambling, etc.), a person may not possess any slot machine within this Commonwealth that may be used for gambling activity.

(b) The following persons and any employee or agent acting on their behalf may possess slot machines in this Commonwealth for the purposes described herein provided that slot machines located outside of a licensed facility may not be used for gambling activity:

(1) An applicant for, or holder of a slot machine license, for the purpose of maintaining for use, training or operating slot machines in a licensed facility.

(2) The holder of a manufacturer license for the purpose of manufacturing, exhibiting, demonstrating, training or preparing for transfer to a manufacturer designee licensee or supplier licensee.

(3) The holder of a manufacturer designee license or supplier license for the purpose of distributing, repairing, servicing, exhibiting or demonstrating slot machines and any training with regard thereto.

(4) An educational institution for the purpose of teaching slot machine design, operation, repair or servicing.

(5) A manufacturer, manufacturer designee or supplier of slot machines not licensed within this Commonwealth for the limited purpose of temporary exhibition or demonstration.

(6) A common carrier, for the purpose of transporting slot machines in accordance with § 463a.2 (relating to the transportation of slot machines into, within and out of this Commonwealth).

(7) An employee or agent of the Board, the Department, the Pennsylvania State Police or any law enforcement agency of this Commonwealth for the purpose of fulfilling official duties or responsibilities.

(8) Other persons upon a finding that the possession of slot machines by those persons in this Commonwealth is not contrary to the goals and objectives of the act.

(c) Persons seeking to possess slot machines under subsection (b) shall submit a written request to the Board which must contain:

- (1) The purpose for having the slot machines.
- (2) The proposed location of the slot machines.
- (3) The time period for which the slot machines will be kept.
- (4) How the slot machines will be secured.
- (d) The Board will approve or disapprove requests within 60 days. Requests approved by the Board may be subject to specific terms and conditions imposed by the Board.

**§ 463a.2. Transportation of slot machines into, within and out of this Commonwealth.**

In furtherance of section 1511 of the act (relating to the declaration of exemption from Federal laws prohibiting slot machines), prior to the transport or movement of a slot machine into this Commonwealth, from one person authorized to possess slot machines under § 463a.1 (relating to possession of slot machines generally) to another person authorized within this Commonwealth or transport or movement out of this Commonwealth, the persons causing the slot machine to be transported or moved shall notify the Bureau of Gaming Laboratory Operations, in writing or in an electronic format approved by the Board. The notice shall be submitted no later than the day the slot machine is transported and include the following information:

- (1) The name and address of the person shipping or moving the slot machine.
- (2) The name and address of the person who owns the slot machine, if different from the person shipping or moving the machine.

(3) The name and address of a new owner if ownership is being changed in conjunction with the shipment or movement.

(4) The method of shipment or movement and the name and address of the common carrier or carriers, if applicable.

(5) The name and address of the person to whom the slot machine is being sent and the destination of the slot machine, if different from that address.

(6) The quantity of slot machines being shipped or moved and the manufacturer's serial number of each machine.

(7) The expected date and time of delivery to, or removal from, any authorized location within this Commonwealth.

(8) The port of entry, or exit, if any, of the slot machine if the origin or destination of the slot machine is outside the continental United States.

(9) The reason for transporting or moving the slot machine.

**§ 463a.3. Slot machine location.**

(a) A gaming floor must consist of one or more areas within a licensed facility approved by the Board under § 467.1 (relating to gaming floor plan) for the placement and operation of slot machines.

(b) A slot machine in a slot machine area on a gaming floor shall be placed at a location, which location may contain no more than one slot machine, identified by number on a gaming floor plan approved by the Board under section 1322 of the act (relating to slot machine accounting controls and audits) and § 467.1 and shall also be identified by this slot machine location number and an asset number on a Slot Machine Master List.

**§ 463a.4. Connection to the central control computer system.**

Prior to utilization for gambling activity, a slot machine on a gaming floor shall be connected or linked to a central control computer system having the capabilities and in compliance with the terms of section 1323 of the act (relating to central control computer system).

**§ 463a.5. Slot machine master list.**

(a) Prior to the commencement of operations at a licensed facility, an applicant for, or holder of, a slot machine license shall file with the Bureau of Gaming Laboratory Operations, in writing or in an electronic format approved by the Board, a complete list of slot machines possessed by the applicant or licensee on its gaming floor, in restricted areas off the gaming floor but within the licensed facility approved by the Board under § 465.8(b) (relating to licensed facility), and in storage locations in this Commonwealth off the premises of the licensed facility approved by the Board under § 463a.7 (relating to off premises storage of slot machines). The list shall be denoted as a Slot Machine Master List.

(b) The Slot Machine Master List must contain the following information which, for those slot machines located on the gaming floor, must be presented for each slot machine in consecutive order by the slot machine location number under § 463a.3 (relating to slot machine location):

- (1) The date the list was prepared.
- (2) A description of each slot machine by:

(i) Asset number and model and manufacturer's serial number.

(ii) Denomination, if configured for multiple denominations, a list the denominations.

(iii) Manufacturer and machine type, noting cabinet type, or if it is a progressive or a wide area progressive slot machine

(iv) An indication as to whether the slot machine is configured to communicate with a cashless funds transfer system.

(v) An indication as to whether the slot machine is configured to communicate with a gaming voucher system.

(3) For those slot machines located off the gaming floor, an indication as to whether the slot machine is in a restricted area off the gaming floor but within the licensed facility approved by the Board under § 465.8 or in a Board-approved storage location in this Commonwealth off the premises of the licensed facility approved by the Board under § 463a.7.

(4) Additional documentation requested by the Board related to the location of slot machines.

(c) Once a slot machine has been placed in an authorized location on the gaming floor or is stored in a restricted area off the gaming floor but within the licensed facility approved by the Board under § 465.8, all subsequent movements of that slot machine within the licensed facility shall be recorded by a slot department member in a machine movement log which includes the following:

(1) The asset number and model and manufacturer's serial number of the moved slot machine.

(2) The date and time of movement.

(3) The location from which the slot machine was moved.

(4) The location to which the slot machine was moved.

(5) The date and time of any required notice to the Department in connection with activation or disabling of the slot machine in the central control computer system.

(6) The signature of the slot shift manager and the lead technician verifying the movement of the slot machine in compliance with this section.

(d) Documentation summarizing slot machine movements within a licensed facility shall be submitted to the Bureau of Gaming Laboratory Operations, in writing or in an electronic format approved by the Board, on a daily basis.

(e) On the first Tuesday of each month following the initial filing of a Slot Machine Master List, an applicant for, or holder of, a slot machine license shall file with the Bureau of Gaming Laboratory Operations, in writing or in an electronic format approved by the Board, an updated Slot Machine Master List containing the information, required in subsection (b).

(f) Manufacturer licensees, manufacturer designee licensees, supplier licensees, educational institutions, Board-authorized manufacturers, manufacturer designee and suppliers not licensed within this Commonwealth and regulatory and law enforcement agencies that possess slot machines under § 463a.1 (relating to possession of slot machines generally) shall file with the Bureau of Gaming Laboratory Operations, in writing or in an electronic format approved by the Board, a complete list of slot

machines possessed by the person. The list shall be denoted as a Slot Machine Master List, shall be filed within 3 business days of the initial receipt of slot machines and contain the following information:

(1) The date on which the list was prepared.

(2) A description of each slot machine by:

(i) Model and manufacturer's serial number.

(ii) Manufacturer and machine type, noting cabinet type, or if it is a progressive or a wide area progressive slot machine.

(g) On the first Tuesday of each month following the initial filing of a Slot Machine Master List, those persons enumerated in subsection (f) shall file with the Bureau of Gaming Laboratory Operations, in writing or in an electronic format approved by the Board, an updated Slot Machine Master List containing the information, required in subsection (f).

**§ 463a.6. Notice to central control computer system.**

To insure activation or disabling, as appropriate, in the central control computer system and the retrieval of real time meter information from the slot machine coincident with the movement of a slot machine, the slot machine licensee shall provide the Department with written notice of the slot movement, prior to any of the following:

(1) Placement of a slot machine on the gaming floor.

(2) Movement of a slot machine between slot machine locations on the gaming floor.

(3) Removal of a slot machine from the gaming floor.

**§ 463a.7. Off premises storage of slot machines.**

(a) A slot machine licensee may not store slot machines off the premises of the licensed facility without prior approval from the Board.

(b) A slot machine licensee seeking to store slot machines off the premises of the licensed facility shall file a written request for off premise storage with the Board. The request must include:

(1) The location and a physical description of the proposed storage facility.

(2) A description of the type of surveillance system that has been or will be installed at the facility.

(3) The slot machine licensees' plan to provide 24 hour, seven day a week security at the storage facility.

(4) The number and manufacturer of the slot machines that will be stored at the facility.

(5) The date that the slot machines are expected to arrive at the facility.

(6) The date that the slot machines are expected to be moved to the licensed facility.

(c) Before acting on a request for off premise storage of slot machines, the Board will inspect the proposed storage facility.

(d) The Board will approve or disapprove requests within 60 days. Requests approved by the Board may be subject to specific terms and conditions imposed by the Board.

[Pa.B. Doc. No. 07-1276. Filed for public inspection July 20, 2007, 9:00 a.m.]

# Title 61—REVENUE

## DEPARTMENT OF REVENUE

### [61 PA. CODE CH. 1001]

#### Pennsylvania Gaming Cash Flow Management

The Department of Revenue (Department) is facilitating its responsibilities under 4 Pa.C.S. §§ 1101—1904 (relating to Pennsylvania Race Horse Development and Gaming Act) (act), as assisted by the Department's temporary regulations adopted at 36 Pa.B. 3450 (July 1, 2006) and the correction published at 36 Pa.B. 3789 (July 15, 2006). Under section 1501(c) of the act (relating to responsibility and authority of department), the temporary regulations in Chapter 1001 (relating to Pennsylvania gaming cash flow management) are adopted as final regulations to read as set forth in Annex A.

The act went into effect July 5, 2004, requiring that temporary regulations be adopted within 2 years (July 5, 2006). The temporary regulations expire no later than 3 years following the effective date of the act (July 5, 2007) or upon promulgation of regulations as generally provided by law. On November 1, 2006, the act was amended by the act of November 1, 2006 (P. L. 1243, No. 135) (Act 135).

#### *Purpose of this Final-Form Rulemaking*

The act legalizes the operation of slot machines at a number of venues across this Commonwealth. The Pennsylvania Gaming Control Board (Board) has primary responsibility for regulatory oversight of gaming activity in this Commonwealth and is separately promulgating regulations in 58 Pa. Code Part VII (relating to Gaming Control Board).

The act requires that the Department adopt temporary regulations by July 5, 2006, to facilitate prompt implementation of its responsibilities as defined by the act. The Department proposed the adoption of final-form regulations by July 5, 2007.

#### *Explanation of Regulatory Requirements*

The Department has several important responsibilities in connection with the implementation and control of slots gaming. The creation of Chapter 1001 during the temporary regulations process addressed these responsibilities; this final-form rulemaking adopts the temporary regulations. This final-form rulemaking pertains to cash flow management for accurate accounting and collection of revenues due the Commonwealth from slot machine gaming operations.

Changes to the temporary regulations include the following:

Section 1001.3 (relating to definitions) is amended to clarify the definition of "credit against tax." In addition, a definition has been added for "Office of the Budget."

Section 1001.5(a) (relating to administration and distribution of moneys held by licensed gaming entities and the Commonwealth) was amended to add clarifying language and to delete "Treasury" in accordance with Act 135. Subsection (b) was amended to add clarifying language and to delete paragraph (5)(iii), regarding the delegation of payment authority. Act 135 eliminated the need for the "delegation of authority" provision. In addition, subsection (b)(2) was amended to delete "for each banking day." Temporary subsection (b)(5)(iii) and (iv) was amended to delete "banking" from the phrase "banking days." These subparagraphs were moved to new subsection (c)(1) and

(2), regarding distributions of local share assessments. Additionally, subsection (c)(1) was amended to remove "or the respective municipality" that allowed for direct distributions to municipalities by licensed entities, as the Department and the licensed entities anticipate distributions will be made by the Department. Amendments to § 1001.5 were made for ease of administration in performing the Department's statutory obligations.

Section 1001.6 (relating to administration of amounts deposited by licensed gaming entities with Treasury to pay Commonwealth gaming related costs and expenses (\$5 million)) was amended to delete subsection (d), at the recommendation of the Independent Regulatory Review Commission (IRRC). Section 1001.6(e) was relettered as subsection (d) and amended by deleting language and by adding language addressing periodic assessments, appropriations by the General Assembly and itemized budget requirements. These amendments are in accordance with Act 135. The phrase "any other Commonwealth entity charged with administrative duties under the act" has been deleted from subsection (d)(1), at the recommendation of IRRC. Clarifying language in subsection (d)(3) was added for the assessment/distribution of expenses on the prorata basis.

Section 1001.8 (relating to State Gaming Fund transfers) was amended to delete subsection (b), regarding establishment of restricted receipt accounts, at the recommendation of IRRC. The subsections have been relettered accordingly. Subsection (c), regarding quarterly distributions, was relettered as subsection (b) and amended to add a reference to § 1001.5 to clarify payments to municipalities. To avoid duplication, subsection (b)(1) has been amended to delete detailed instructions that appear in the referenced Management Directive 305.4. In addition, subsection (b)(2) has been amended to change the month for publication of the annual inflation adjustment from July 1 to January 1. Subsection (d), regarding tax and credit against tax, has been relettered as subsection (c), renamed "tax, assessments and credit against tax," amended to remove "daily" and amended to remove "each banking day" in paragraphs (2) and (3). In addition, clarifying language "and other assessments" has been added to subsection (c)(1), (2), (5) and (6). Amendments to § 1001.8 were made for ease of administration in performing the Department's statutory obligations. Subsection (e), regarding imposition of a penalty, has been relettered as subsection (d) and amended to delete "or any other fund of the Commonwealth" at the recommendation of IRRC.

Section 1001.10(d) (relating to Pennsylvania Race Horse Development Fund transfers) is amended with clarifying language for Category 1 licensee "conducting live racing" and "eligible" Category 1 licensee.

Section 1001.11 (relating to Property Tax Relief Fund transfers) was amended to add the clarifying language "and other applicable laws."

In the final-form rulemaking, "collection of tax and other assessments" was added to §§ 1001.1, 1001.2, 1001.5 and 1001.8 to clarify that the regulation also pertains to the collection of tax and the collection of other assessments.

#### *Affected Parties*

Licensed gaming entities, the Treasury Department, the Board, the Office of Attorney General, the Pennsylvania State Police and other agencies that have been given statutory authority under the act will be affected by the final-form rulemaking.

*Comment and Response Summary*

Notice of proposed rulemaking was published at 37 Pa.B. 1028 (March 3, 2007). This final-form rulemaking is adopted with amendments to read as set forth in Annex A.

The Department prepared a comment and response document that is available to interested parties by contacting Mary R. Sprunk, Office of Chief Counsel, Department of Revenue, P. O. Box 1061, Harrisburg, PA 17128-1061.

In its evaluation of proposed Annex A, the Department received comments from IRRC and two comments from the gaming industry. No comments were received from the Senate Finance Committee. Secretary Wolf received a letter from Representative Steven R. Nickol, Minority Chairperson of the House Finance Committee, asking the Department questions on a few provisions. The majority of the comments focused on §§ 1001.5 and 1001.6.

In the final-form rulemaking, the Department responded to several key issues raised by the commentators by amending the definition of "credit against tax" and adding a definition of "Office of the Budget." In addition, the Department added clarifying language throughout the final-form rulemaking for the methodology of CCS calculations, the Department's assessment procedures, the assessment of general administrative costs incurred by the Commonwealth and the State Gaming Fund transfer procedures.

*Fiscal Impact*

There is no cost for implementing this final-form rulemaking. The final regulations serve to clarify the Department's responsibilities in terms of slot machine gaming regulation. The Department submitted a proposed budget of \$8.3 million for Fiscal Year 2007-08. That amount includes all costs associated with the Department to administer this final-form rulemaking. These expenses will be billed on a prorata basis to licensed gaming entities and deducted from each entity's Section 1401 account.

*Paperwork*

The final-form rulemaking will require minimal paperwork for the public or the Commonwealth.

The Department will annually, on or before January 1, publish notices in the *Pennsylvania Bulletin* to announce the annual inflation adjustment of the distributions to municipalities.

*Effectiveness/Sunset Date*

The final-form rulemaking becomes effective upon publication in the *Pennsylvania Bulletin*. The regulations are scheduled for review within 5 years of publication. No sunset date has been assigned.

*Contact Person*

The contact person for an explanation of the final-form rulemaking is Mary R. Sprunk, Office of Chief Counsel, Department of Revenue, P. O. Box 1061, Harrisburg, PA 17128-1061.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 21, 2007, the Department submitted a copy of the notice of proposed rulemaking, published at 37 Pa.B. 1028, to IRRC and the Chairpersons of the House Committee on Finance and the Senate Committee on Finance for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on June 20, 2007, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 21, 2007, and approved the final-form rulemaking.

*Findings*

The Department finds that:

(1) Public notice of intention to amend the regulations has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The amendments are necessary and appropriate for the administration and enforcement of the act.

*Order*

The Department, acting under the authorizing statute, orders that:

(a) The regulations of the Department, 61 Pa. Code Chapter 1001, are amended by adding final regulations in §§ 1001.1—1001.11 to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to form and legality as required by law.

(c) The Secretary of the Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

THOMAS W. WOLF,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 37 Pa.B. 3138 (July 7, 2007).)*

**Fiscal Note:** Fiscal Note 15-436 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 61. REVENUE**

**PART IX. PENNSYLVANIA GAMING CASH FLOW MANAGEMENT**

**CHAPTER 1001. PENNSYLVANIA GAMING CASH FLOW MANAGEMENT**

**GENERAL PROVISIONS**

**§ 1001.1. Scope.**

This chapter establishes procedures for the administration and distribution of all net slot machine revenue, collection of tax and collection of other assessments under the act. In addition, this chapter clarifies the administrative procedures for transferring the statutorily established amounts of funding as prescribed in the act.

**§ 1001.2. Purpose.**

The purpose of this chapter is to notify prospective licensed entities, as well as the general public, of the procedures and requirements for distributing net slot machine revenue, collection of tax and collection of other assessments.

**§ 1001.3. Definitions.**

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

*Act*—The Pennsylvania Race Horse Development and Gaming Act (4 Pa.C.S. §§ 1101—1904).

*Annual minimum distribution*—Other than for a Category 3 licensee, 2% of the gross terminal revenue of the licensed gaming entity or \$10 million, whichever is greater.

*Banking day*—The part of any day that the Federal Reserve has established for a bank to be opened to the public for carrying on substantially all of its banking functions.

*Board*—The Pennsylvania Gaming Control Board of the Commonwealth.

*CCS*—The central control computer system controlled by the Department and accessible by the Board, to which all slot machines communicate for the purpose of recording, reviewing, reporting and auditing real-time information regarding the events that occur during the operation of a slot machine. This includes distinguishing between daily deposits made by licensed gaming entities of taxes due on play of slot machines and all other transfers of moneys to Commonwealth accounts not considered a daily deposit under this chapter.

*Collection Account*—A Department bank account authorized by the Treasury for the collection of taxes and other payments received from licensed gaming entities and which is maintained and reconciled by the Department.

*Concentration Account*—A Treasury bank account used for the deposit and disbursement of all recognized Commonwealth moneys and which is maintained and reconciled by the Treasury Department.

*Credit against tax*—Credit as specified in section 1209(c) of the act (relating to slot machine license fee) and established if the tax rate imposed by section 1403 of the act (relating to establishment of State Gaming Fund and net slot machine revenue distribution) upon slot machine daily gross terminal revenue is increased at any time during the term of 10 years following the initial issuance of the slot machine license.

*Department*—The Department of Revenue of the Commonwealth.

*EFT*—Electronic funds transfer.

*Fund*—A fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equities or balances and the changes therein, that are segregated for the purpose of carrying on specific activities or attaining certain objectives established for the receipt of gross terminal revenue distributions under the act.

*Gross terminal revenue*—As defined in section 1103 of the act (relating to definitions).

*Licensed gaming entity*—As defined in section 1103 of the act.

*Manufacturers*—As defined in section 1103 of the act.

*Office of the Budget*—An administrative agency as authorized by section 609 of The Administrative Code of 1929 (71 P. S. § 229) under the direct supervision of the Secretary of the Budget.

*Pennsylvania Gaming Economic Development and Tourism Fund*—The fund established under section 1407 of the act (relating to Pennsylvania Gaming Economic Development and Tourism Fund).

*Pennsylvania Race Horse Development Fund*—The fund established under section 1405 of the act (relating to Pennsylvania Race Horse Development Fund).

*Property Tax Relief Fund*—The fund established under section 1409 of the act (relating to Property Tax Relief Fund).

*Race Horse Improvement Daily Assessment*—The amount each operating licensed gaming entity shall pay daily to the Department, according to Department calculations.

*State Gaming Fund*—The fund established under section 1403 of the act.

*Suppliers*—As defined in section 1103 of the act.

*Treasury*—The Treasury Department of the Commonwealth.

**§ 1001.4. Calculations of credit against tax and Race Horse Improvement Daily Assessment.**

(a) *Credit against tax.* The amount of the credit must be equal to the difference between the tax calculated at the rate in effect when a license was issued to the licensed gaming entity and the tax calculated at the increased rate. The credit shall be applied on a dollar-for-dollar basis but may not extend beyond the 10-year period following the initial issuance of the license.

(b) *Race Horse Improvement Daily Assessment.* The amount of this assessment shall be calculated in accordance with section 1405(b) of the act (relating to Pennsylvania Race Horse Development Fund). This assessment shall be multiplied by 18% of daily gross terminal revenue for all active and operating Category 1 licensed gaming entities that are conducting live racing. The amount may not exceed 12% of that day's gross terminal revenue for that licensed gaming entity, and shall be subject to the daily assessment cap established under section 1405(c) of the act.

**§ 1001.5. Administration and distribution of moneys held by licensed gaming entities and the Commonwealth.**

(a) *Application of section.* This section applies to the collection of tax, the collection of other assessments and all transfers of moneys to and from the State Gaming Fund, Pennsylvania Gaming Economic Development and Tourism Fund, Pennsylvania Race Horse Development Fund and any other fund as specified in this chapter.

(b) *Deposits and transfers to Treasury by licensed gaming entities.*

(1) The Department will notify each licensed gaming entity, Treasury and Office of the Budget of the actual amount each licensed gaming entity shall be required to deposit with Treasury as calculated by the CCS in accordance with sections 1323, 1403 and 1405—1407 of the act. A licensed gaming entity shall make deposits with Treasury on the same banking day as the date of the Department's notice to the licensed gaming entity and by the times specified by the Department.



(2) Payments shall be electronically transferred by the licensed gaming entities and available to the Commonwealth by the deadline established by the Department. Moneys shall be deposited in the Department's Collection Account.

(3) System problems or failures, such as power outages and states of emergency, will not excuse the licensed gaming entity from making the required deposits in a timely manner. The licensed gaming entity shall immediately notify the Department and the Board of any of these problems.

(4) The Department will maintain records of deposits to the Department's Collection Account under this chapter and will share information, as practicable, to assist Treasury in its reconciliation of deposits into its Concentration Account.

(5) The administration of assessments will be as follows:

(i) *Proration of assessment.* Upon imposition of the annual minimum distribution amount, as specified in section 1403(c)(3) of the act (relating to establishment of State Gaming Fund and net slot machine revenue distribution), regardless of whether the minimum is subject to the budgetary limitations of section 1403 of the act, the required minimum shall be prorated for that portion of the municipality's fiscal year that the Board determines that the licensed gaming entity was actually in operation.

(ii) *Limitation of assessment.* Upon imposition of the minimum distribution upon the licensed gaming entity, the required minimum shall be paid in accordance with the administrative procedures of this section.

(6) The Department reserves the right, upon notice served upon the licensed gaming entity and the Board, to temporarily disable the licensed gaming entity's slot machines through the CCS until the Department receives verification that the required deposit has been made.

(c) *Distributions of local share assessments.*

(1) *Distributions of local share assessments to municipalities.* If a licensed gaming entity fails to reach the requisite annual minimum distribution as required under the act within 15 days following the end of the municipality's fiscal year, the Department will notify the licensed gaming entity of the shortfall and the amount to be remitted. A licensed gaming entity shall remit the difference required to meet the requisite annual minimum distribution as required under the act within 15 days following the end of the municipality's fiscal year. The licensed gaming entity shall remit the required payment to the Department for distribution in accordance with the act. Distributions specified in this chapter shall be made by the licensed gaming entity to the Department, no later than 15 days from the Department's notice of the shortfall.

(2) *Distributions of local share assessments to counties.* The Department will make distributions in accordance with section 1403(c)(2) of the act. If the minimum distribution exceeds the applicable annual municipal allocation cap in section 1403(c)(3) of the act, the amount in excess of the municipal allocation cap shall be distributed by the Department in accordance with section 1403(c)(2) of the act.

**§ 1001.6. Administration of amounts deposited by licensed gaming entities with Treasury to pay Commonwealth gaming related costs and expenses (\$5 million).**

(a) No later than 2 business days prior to the commencement of slot machine operations, the licensed gam-

ing entity shall deposit \$5 million in the Department's Collection Account. Upon transfer of the \$5 million deposit into Treasury's Concentration Account, the deposit shall be credited to an account established in Treasury for the licensed gaming entity. The account established shall also be used to recognize and account for all future deposits required from the licensed gaming entity by the Department for administrative costs and all future withdrawals made by the Department for reimbursement of administrative costs.

(b) Each licensed gaming entity shall maintain a minimum account balance with Treasury of \$5 million.

(c) Moneys related to this account shall be transferred to the Department's Collection Account and from Treasury by EFT or other methods of funds transfer in accordance with § 1001.5(b) (relating to administration and distribution of moneys held by licensed gaming entities and the Commonwealth).

(d) Reimbursement of Commonwealth expenses will be as follows:

(1) The Department will issue to the licensed gaming entity, periodic assessments of expenses incurred by the Board, Department, Office of Attorney General and the Pennsylvania State Police, regarding expenses directly related to the licensed gaming entity, under budgets approved by the Board and upon appropriation by the General Assembly as required in section 1402.1 of the act (relating to itemized budget reporting). Expenses not included in budgets approved by the Board may not be assessed against the licensed entity under this section.

(2) Expenses incurred by the Commonwealth and assessed to the licensed gaming entity shall be charged back to the licensed gaming entity and deducted from the licensed gaming entity's account, as specified in section 1401 of the act (relating to slot machine licensee deposits) and this section.

(3) General administrative costs of the Commonwealth not specifically assessed to a licensed gaming entity under paragraph (1), shall be borne by each licensed gaming entity on a prorata basis, at the discretion of the Secretary of Revenue until all Category 1 and Category 2 licensed gaming entities are operating as permitted under the act.

**§ 1001.7. Deposits of license, permit and other fees.**

The fees for manufacturers' and suppliers' licenses, employment permits and other licenses and permits as the Board may require, excluding license fees paid for Categories 1, 2 and 3 licenses under sections 1209 and 1305 of the act (relating to slot machine license fee; and Category 3 slot machine license), shall be deposited with Treasury into a restricted receipt account within the State Gaming Fund. The fees deposited will be transferred from a restricted receipt account into a restricted revenue account of the State Gaming Fund to be used by the Board to pay its operating expenses. License fees paid for Categories 1, 2 and 3 licenses under sections 1209 and 1305 of the act shall be paid into the State Gaming Fund in accordance with sections 1209(d) and 1305 of the act.

**§ 1001.8. State Gaming Fund transfers.**

(a) *Application of section.* This section applies to the transfers of moneys to and from the State Gaming Fund.

(b) *Quarterly distributions.* Quarterly distributions from the State Gaming Fund to counties or municipalities in which a licensed facility is located, as determined by the Board, and as specified in Chapter 14 of the act

(relating to revenues), shall be performed in accordance with the Governor's Management Directive 305.4 (relating to payments to counties), § 1001.5 (relating to administration and distribution of moneys held by licensed gaming entities and the Commonwealth) and the following provisions:

(1) The Department will submit payment requisitions, accompanied by documentation, to the Office of the Budget for payment through Treasury.

(2) The Department will determine the annual inflation adjustment and will publish notice of the inflation adjustment in the *Pennsylvania Bulletin* by January 1 of each year.

(3) The Department will make distributions quarterly, no later than 30 days following the end of each calendar quarter.

(c) *Tax, assessments and credit against tax.*

(1) Determinations of gross terminal revenue and the calculations of taxes and other assessments due will be determined by the Department based on the actual calculations by the CCS.

(2) The Department will notify each licensed gaming entity and Treasury of the amount of tax and other assessments due to the Commonwealth.

(3) Each licensed gaming entity shall deposit the amount specified in paragraph (2) into the Department's Collection Account, in the manner prescribed by § 1001.5(b).

(4) The Department will enter into an agreement with each licensed gaming entity setting forth the terms and conditions of any credit against tax as claimed by the licensed gaming entity.

(5) Taxes and other assessments due as determined by the Department shall remain payable by the licensed gaming entity to the Department in accordance with section 1501(a) of the act (relating to responsibility and authority of department) regardless of any discrepancies between the licensed gaming entity's calculation and that of the Department's or amounts contested by any party concerning the credit against taxes due. Resolution of disputed payments due will be addressed by the Department through adjustments it makes to its calculation of future payment amounts due. The Department may make adjustments to its calculation of future payment amounts due after resolution of any dispute regarding the amount of taxes due. The Department will provide notice to the Board of the final calculations of taxes due under this subsection.

(6) Any remittance due that is caused by the imposition of the tax or other assessments on nonbanking days as well as holidays shall be remitted by the licensed gaming entity on the next banking day. For example, any tax that has accrued on Independence Day shall be transferred on the following banking day.

(d) *Imposition of a penalty.* Failure to comply with this section that results in the failure to transmit the requisite amounts to the Department's Collection Account shall result in the imposition of a penalty of 5% per month up to a maximum of 25% of the amounts due and unpaid by the licensed gaming entity. Payments made by a licensed gaming entity toward delinquent amounts, including penalties, shall be allocated to the licensed gaming entity's delinquency in accordance with the priority of payments as specified under section 209 of the Taxpayers' Bill of Rights (72 P. S. § 3310-209).

#### **§ 1001.9. State Gaming Economic Development Tourism Fund transfers.**

(a) Department personnel will notify the respective licensed gaming entity and Treasury of the amounts the licensed gaming entity shall be required to deposit in the Department's Collection Account. Deposits shall be made on the same banking day as the date of the notice by the Department.

(b) Moneys shall be transferred by the licensed gaming entity by EFT or other method the Department may require and shall be deposited in the Department's Collection Account prior to being transferred to Treasury's Concentration Account.

(c) System problems or failures, such as power outages and states of emergency, will not excuse the licensed gaming entity from making the required deposits in a timely manner. The licensed gaming entity shall immediately notify the Department and the Board of the problems.

(d) The Department will maintain records of the Department's Collection Account under this chapter and will share information as practicable, to assist Treasury in its reconciliation of deposits into its Concentration Account.

#### **§ 1001.10. Pennsylvania Race Horse Development Fund transfers.**

(a) Prior to making each Race Horse Improvement Daily Assessment against a licensed gaming entity, the Department will determine the amount of each licensed gaming entity's gross terminal revenue.

(b) Eighteen percent of the gross terminal revenue of each Category 1 licensed gaming entity shall be returned to each active and operating Category 1 licensed gaming entity that conducts live racing subject to the assessment cap in section 1405(c) of the act (relating to Pennsylvania Race Horse Development Fund), and subject to the allocations specified in section 1406(a)(1)(i)–(iii) of the act (relating to distributions from Pennsylvania Race Horse Development Fund).

(c) Procedures concerning Pennsylvania Race Horse Development transfers are as follows:

(1) Department personnel will notify the respective licensed gaming entity and Treasury of the actual amount each licensed gaming entity shall be required to deposit in the Department's Collection Account as determined by the CCS. Deposits shall be made on the same banking day as the date of the notice by the Department.

(2) Moneys shall be transferred by the licensed gaming entity by EFT or other method as the Department may require and shall be deposited in the Department's Collection Account prior to being transferred to Treasury's Concentration Account.

(3) System problems or failures, such as power outages and states of emergency, will not excuse the licensed gaming entity from making the required deposits in a timely manner. The licensed gaming entity shall immediately notify the Department and the Board of any of these problems.

(4) The Department will maintain records of the Department's Collection Account under this chapter and will share information as practicable, to assist Treasury in its reconciliation of deposits to its Concentration Account.

(d) The Department will notify each active and operating Category 1 licensee conducting live racing, Treasury and Office of the Budget of the amounts each active and operating Category 1 licensee conducting live racing will

receive. An eligible Category 1 licensee will receive from Treasury a weekly payment from the Pennsylvania Race Horse Development Fund in accordance with the act. The deposits required under section 1406(a)(1)(ii) of the act will be deducted by the Department before making the payment to each active and operating licensee and transferred to the appropriate State fund, under section 1406 of the act.

(1) Payments will be electronically transferred by the Commonwealth and will be available to the licensee by the deadline established by the Department.

(2) Both Treasury and the Department will maintain records of distributions under this chapter and will share information, as practicable, to assist each agency in its reconciliation process.

(e) For purposes of the calculations and distributions of section 1406(a) of the act, live racing will be determined annually, and as a Category 1 licensed gaming entity commences live racing in accordance with section 1303(b) of the act (relating to additional Category 1 slot machine license requirements).

**§ 1001.11. Property Tax Relief Fund transfers.**

The Department will determine the appropriate amount of moneys to be transferred into the Property Tax Relief Fund. The moneys will be transferred only after all amounts of funding have been met concerning the transfers of money to the other funds specified in section 1408 of the act (relating to transfers from State Gaming Fund) and other applicable laws.

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