

# RULES AND REGULATIONS

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF ACCOUNTANCY  
[49 PA. CODE CH. 11]

### Revision and Deletion of Existing Regulations

The State Board of Accountancy (Board) amends Chapter 11 to read as set forth in Annex A.

The final-form rulemaking is a general updating of the Board's regulations that aims to provide consistency with the current provisions of the CPA Law (act) (63 P. S. §§ 9.1—9.16b), clarify certain practice issues and improve organization and comprehension. The final-form rulemaking amends regulations that predate the act of December 4, 1996 (P. L. 851, No. 140) (Act 140), which constituted the last major revision of the act. The Board implemented statutorily mandated regulations under Act 140 in a previous rulemaking.

#### *Statutory Authority*

The final-form rulemaking is authorized by section 3(a)(11) and (12) of the act (63 P. S. § 9.3(a)(11) and (12)), which empowers the Board to promulgate, respectively, regulations regarding professional conduct and other matters necessary to carry out the provisions of the act.

#### *Summary of Comments and Responses to Proposed Rulemaking*

The Board published a proposed rulemaking at 35 Pa.B. 1573 (March 5, 2005), with a 30-day public comment period. The Board received comments from the Pennsylvania Institute of Certified Public Accountants (PICPA).

The Board received comments from the Independent Regulatory Review Commission (IRRC) and the House Professional Licensure Committee (HPLC) as part of their review of the 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 the proposed rulemaking under the Regulatory Review Act.

#### *Deletion of Redundant Regulations*

The proposed rulemaking deleted several regulations and parts of regulations that the Board considered unnecessary because they were obsolete, redundant of language in the act or relocated elsewhere in Chapter 11. The HPLC recommended that the Board retain, and update as necessary, regulations that contain language from the act. The HPLC commented that attorneys, licensees and those who engage the services of licensees are likely to consult Chapter 11 for information about requirements regarding the practice of public accounting, and that they would benefit from regulations that reflect current statutory requirements. IRRC endorsed the views of the HPLC.

As more specifically discussed as follows, the final-form rulemaking retains, with updated content and references to statutory language as appropriate, regulations that were proposed for deletion as being redundant of the act.

#### *§ 11.1. Definitions.*

The proposed rulemaking deleted the definitions of "Board," "firm," "licensee" and "practice of public accounting" because updated definitions of those terms appear in section 2 of the act (63 P. S. § 9.2). The proposed rulemaking also deleted: the definition of "contingent fee" because it was being relocated to § 11.25 (relating to contingent fees), the only regulation in Chapter 11 that uses the term; the definition of "attest function" because the term had been replaced elsewhere in Chapter 11 with the term "attest activity," which is already defined in section 2 of the act; and the definition of "inactive status" because the term is not used in Chapter 11.

The HPLC and IRRC recommended that current versions of the definitions of "attest activity," "Board," "firm," "licensee" and "public accounting," as set forth in the act, be retained in § 11.1. The HPLC also recommended that the definition of "contingent fee" be retained in § 11.1 in the event the Board should reference the term in another regulation. The HPLC also recommended that the definition of "inactive status" be retained because the term is a better choice of language than "inactive license roll" in § 11.9 (relating to use of the designation "certified public accountant" and the abbreviation "CPA" solely as mark of achievement by individual without current license). The final-form rulemaking incorporates these recommendations. The definitions are based on section 2 of the act, except the definition of "inactive status," which is based on sections 8.2(a.1) and 9.2(d) of the act (63 P. S. §§ 9.8b(a.1) and 9.9b(d)).

The HPLC also recommended that the definition of "qualified association" from section 2 of the act be added to § 11.1, noting that the term is part of the current definition of "firm" and could be referenced in § 11.5 (relating to temporary practice in this Commonwealth). The final-form rulemaking incorporates this recommendation.

The HPLC, IRRC and PICPA recommended that the abbreviation of the Public Company Accounting Oversight Board (PCAOB) be added to § 11.1 because the PCAOB is an important recognized standard-setting body that should be referenced in the regulations that identify other recognized standard-setting bodies. PICPA also recommended that the abbreviation of the Statement on Standards for Attestation Engagements (SSAE) be added to § 11.1 because the SSAE should be referenced in § 11.55(b) (relating to experience requirements for CPA certification), which sets forth categories of qualifying attest experience for certified public accountant (CPA) certification. The final-form rulemaking incorporates these recommendations.

The final-form rulemaking also adds the abbreviation of the Securities and Exchange Commission (SEC) to § 11.1 because the SEC is referenced in certain regulations that identify recognized standard-setting bodies.

#### *§ 11.3. Applicability of general rules.*

The proposed rulemaking deleted § 11.3, which provides that the Board's formal proceedings are governed by 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure), on the ground that it is redundant of language in section 9(a) of the act (63 P. S. § 9.9(a)).

Upon the recommendation of the HPLC and IRRC, the final-form rulemaking retains § 11.3.

*§ 11.5. Temporary practice in this Commonwealth.*

Section 11.5(a) listed the requirements for the temporary practice of public accounting in this Commonwealth. The proposed rulemaking amended § 11.5(a) to provide that a CPA currently licensed to practice in another state or an association of CPAs currently licensed to practice in another state could seek permission to obtain a temporary permit to practice public accounting in this Commonwealth.

Noting that § 11.5(a) referenced not only licensees "of another state" but also licensees of any "other jurisdiction of the United States," the HPLC and IRRC commented that the proposed rulemaking could be interpreted as denying temporary practice privileges to licensees of the District of Columbia and asked the Board to provide its rationale for this exclusion. The temporary practice language in section 13(b) of the act (63 P. S. § 9.13(b)), which was enacted as part of Act 140, refers only to licensees "of another state." The prior version of section 13(b) of the act referred to licensees of "another state or Federal district, territory or insular possession of the United States." The Board notes, however, that under 1 Pa.C.S. § 1991 (relating to definitions), the definition of "state," in the context of referring to different parts of the United States, "includes the District of Columbia and the several territories of the United States." Therefore, a current licensee of the District of Columbia would be eligible to apply for a temporary practice permit under amended § 11.5(a).

The HPLC recommended that the reference in § 11.5(a) to "an association of certified public accountants" be changed to "a qualified association of CPAs." Although section 13(b) of the act refers only to an association of CPAs, the Board believes a qualified association of CPAs is more appropriate terminology because a "qualified association," as defined in section 2 of the act, includes an association that is formed under the laws of another state that affords the association's owners no greater immunity than is available to shareholders of a professional corporation incorporated in this Commonwealth. The Board considers it appropriate that an out-of-State firm practicing public accounting in this Commonwealth should not enjoy greater immunity from civil liability than that accorded a public accounting firm from this Commonwealth. Accordingly, the final-form rulemaking incorporates the recommendation of the HPLC.

Section 11.5(a) provided that an applicant for a temporary practice permit may not maintain an office in this Commonwealth. The proposed rulemaking amended § 11.5(a) to provide that an applicant may not "personally" maintain an office in this Commonwealth. The HPLC questioned the legal significance of adding the word "personally" to the requirement. The Board's intent was to make it clear that an out-of-State employee of a Pennsylvania-licensed National or regional public accounting firm is not precluded from obtaining a temporary practice permit merely because his employer maintains an office in this Commonwealth.

The Board reconsidered the need to retain any prohibition on the right of a temporary practice permitholder to maintain an office in this Commonwealth. The rationale for the prohibition is to prevent a temporary practitioner in this Commonwealth from establishing a permanent practice without the requirement of licensure. However, § 11.5(b) authorizes the issuance of a renewable 1-year permit for up to 500 hours of work or a nonrenewable 1-year permit for an unlimited number of hours on a single, nonrecurring engagement. These provisions con-

template that a temporary practice permitholder may practice regularly in this Commonwealth for periods of relatively short duration or practice episodically in this Commonwealth for periods of relatively long duration. In either case, allowing a temporary practice permitholder to maintain an office in this Commonwealth affords greater convenience to clients in this Commonwealth. Accordingly, the final-form rulemaking deletes the prohibition in § 11.5(a) against a temporary practice permitholder's maintaining an office in this Commonwealth.

Section 11.5(c) provided that an out-of-State licensee that does not meet the requirements for a temporary practice permit must satisfy the license requirements in the act to practice public accounting in this Commonwealth. Section 11.5(d) identified the types of activities that do not require possession of a temporary practice permit. The proposed rulemaking deleted § 11.5(c) and (d) as unnecessary because the act adequately addresses the subject matter of these subsections.

Upon the recommendation of the HPLC and IRRC, the final-form rulemaking retains § 11.5(c) and (d) in an amended form. Revised § 11.5(c) contains references to the current provisions of the act that set forth requirements regarding the certification and licensure of individuals by reciprocity and to the licensure of public accounting firms. Revised § 11.5(d) reflects the current content of section 13(c) of the act, which addresses the scope of permissible activities not requiring a license or temporary practice permit.

*§ 11.7. Use of the designation "public accountant" and the abbreviation "PA."*

*§ 11.8. Use of the designation "certified public accountant" and the abbreviation "CPA" in the practice of public accounting.*

Sections 11.7(a) and 11.8(a) identified the categories of individuals and entities that may use the designations and abbreviations. Sections 11.7(b) and 11.8(b) proscribed unlawful use of the designations and abbreviations by individuals and entities that are not currently licensed to practice public accounting. Sections 11.7(c) and 11.8(c) gave examples of unlawful use. Sections 11.7(d) and 11.8(d) set forth the disciplinary provisions of the act that are implicated by unlawful use. The proposed rulemaking deleted §§ 11.7 and 11.8 as unnecessary because various provisions of the act already cover the subject matter of these regulations.

Upon the recommendation of the HPLC and IRRC, the final-form rulemaking retains §§ 11.7 and 11.8 with amendments for clarity and comprehension, including amended examples of unlawful use and deletion of references to repealed sections of the act. Amended §§ 11.7 and 11.8 are consistent with the current versions of section 12(a), (c), (j) and (q) of the act (63 P. S. § 9.12(a), (c), (j) and (q)).

*§ 11.9. Use of the designation "certified public accountant" and the abbreviation "CPA" solely as mark of achievement by individual without current license.*

Section 11.9(a) set forth conditions under which the holder of a CPA certificate who does not possess a current license to practice public accounting may use the designation "certified public accountant" and the abbreviation "CPA" solely as a mark of achievement on business cards and stationery. The conditions stipulate that the certificateholder may not be under suspension or revocation; notify the Board in writing that he desires to be placed on the inactive roll; be employed in private industry, government or academia; refrain from practicing

public accounting or offering to practice public accounting; refrain from holding out as a CPA when offering accounting-related services; refrain from advertising as a CPA and from publicly displaying a CPA certificate in a manner to suggest he is engaged in the practice of public accounting; and identify his employer and job title on the stationery and business cards that bear the designation "certified public accountant" or the abbreviation "CPA." Section 11.9(b) gave examples of unlawful use, while § 11.9(c) identified the disciplinary provisions of the act that are implicated by unlawful use.

The proposed rulemaking amended § 11.9(a), consistent with section 12(a) of the act, to provide that an individual who has received written notification from the Board that he is qualified to receive a CPA certificate may also use the designation "certified public accountant" and the abbreviation "CPA" subject to the same conditions as an actual certificateholder. The proposed rulemaking also amended § 11.9(a) to broaden the scope of permissible use to include an individual's resumé or curriculum vitae, when accompanied by language reflecting that the individual's license is inactive, and a self-employed individual's business cards, letterhead and other stationery, when accompanied by wording describing the nature of the individual's business. The proposed rulemaking further amended § 11.9(a) by restating the conditions regarding permissible use in fewer paragraphs and without redundancy of content. The proposed rulemaking deleted § 11.9(b) and (c) as duplicative of information contained in § 11.9(a) or in the act.

The HPLC and IRRC expressed concern that allowing an individual without a current license to use the designation "certified public accountant" and the abbreviation "CPA" as a mark of achievement may mislead the public into believing the individual is authorized to practice public accounting. The HPLC asked the Board to reevaluate the legal basis for § 11.9 under the current the act.

Section 12(a) of the act makes it unlawful, in part, for an individual to use the designation "certified public accountant" or "CPA" unless he has either received a CPA certificate from the Board or has been notified in writing of his eligibility to receive a CPA certificate from the Board. Section 12(q) of the act makes it unlawful for an individual to practice public accounting without a license from the Board. Section 2 of the act defines "public accounting," in part, as performing, or offering to perform, professional services involving the use of accounting skills (such as management advisory or consulting services, financial planning or preparation of tax returns) while holding out as a CPA. "Holding out," in turn, is defined in section 2 of the act as written or oral communication by an individual that he is a CPA while performing or offering to perform services to the public. Taken together, section 12(a) and (q) of the act permit the holder of a CPA certificate, or an individual eligible to receive a certificate, to use the designation "certified public accountant" and the abbreviation "CPA" without a current license from the Board so long as the use does not implicate the practice of public accounting. The conditions in § 11.9(a) are aimed at ensuring that an unlicensed individual who is permitted to use the designation "certified public accountant" or "CPA" under section 12(a) of the act does so without violating section 12(q) of the act. Accordingly, the Board does not see an inconsistency between § 11.9 and the current provisions of the act.

The HPLC recommended retaining the conditions in § 11.9(a), proposed for deletion, that proscribe an unlicensed individual's use of the designation "certified public

accountant" and the abbreviation "CPA" in advertising and his holding himself out as being engaged in the practice of public accounting when offering accounting-related services. The final-form rulemaking restores these conditions with amendments.

The HPLC and IRRC recommended that § 11.9(a) be modified to require an unlicensed individual to disclose his "inactive" status on a resumé or curriculum vitae in addition to business cards, letterhead and other stationery. The final-form rulemaking includes this amendment. The final-form rulemaking also amends § 11.9(a) to eliminate a usage issue raised by the HPLC.

Upon the recommendation of the HPLC and IRRC, the final-form rulemaking retains § 11.9(b) and (c) with amendments and updated references to the act.

The HPLC asked whether an individual on inactive status who uses the designation "certified public accountant" or "CPA" as a mark of achievement is required to complete 80 hours of continuing professional education (CPE) every 2 years. The CPE requirement in the act applies only to an individual who wishes to maintain a current license. Section 9.2(d)(1) of the act provides that an individual applying to reinstate an inactive license must have completed 80 hours of CPE within the 2-year period preceding the date of application.

#### *§ 11.21. Independence.*

Section 11.21 provided that a licensee may not issue an opinion on the financial statements of an enterprise as an independent public accountant if the licensee's independence with respect to the enterprise is impaired. Section 11.21 also set forth the circumstances under which a licensee's independence is considered impaired, which are based on the interpretations of Professional Standards Rule 101 of the American Institute of Certified Public Accountants (AICPA). The proposed rulemaking amended § 11.21 to provide that a licensee's independence is considered impaired if the licensee failed to comply with the independence rules and requirements of a recognized public or private standard-setting body that are applicable to the attest engagement. The proposed rulemaking identified standard-setting bodies as including, among others, the AICPA, the SEC, General Accounting Office and Department of Labor. The proposed rulemaking reflected the fact that the AICPA's independence rule may not include the requirements of other regulatory bodies with jurisdiction over the attest activities of the Board's licensees.

The HPLC, IRRC and PICPA recommended that the PCAOB be added to the list of recognized standard-setting bodies in § 11.21. The PCAOB is a private-sector, nonprofit organization that was formed under the Sarbanes-Oxley Act of 2002 (Pub. L. No. 107-204, 116 Stat. 75), after the Board had initiated the proposed rulemaking process. The PCAOB's mission is "to oversee the auditors of publicly-traded companies in order to protect the interests of investors and further the public interest in the preparation of informative, fair and independent audit reports." The final-form rulemaking adds the PCAOB to the list of examples of recognized standard-setting bodies in § 11.21. At the recommendation of the HPLC, the final-form rulemaking also amends § 11.21 to use the term "attest activity" for consistency with the act and makes amendments as to how the examples of standard-setting bodies are referenced.

#### *§ 11.25. Contingent fees.*

As defined in § 11.1, a contingent fee is "[a] fee established for the performance of a service under an

arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent on the finding or result of the service.” Section 11.25(a) prohibited a licensee from collecting, or seeking to collect, a contingent fee for performing a professional service during a period in which the licensee has also been engaged to perform an attest function for the client, or for preparing an original or amended tax return or a claim for a tax refund. Section 11.25(b) provided that documents generated during an engagement in which the licensee is collecting a contingent fee must contain a statement that no attest function is being performed.

The proposed rulemaking replaced the term “attest function” with “attest activity” in § 11.25(a) and (b) and added subsection (c) for the purpose of relocating the definition of “contingent fee” from § 11.1 (relating to definitions). The current definition of “contingent fee” is derived from AICPA Professional Standards Rule 302. The proposed rulemaking amended the definition of “contingent fee,” consistent with the language in AICPA Professional Standards Rule 302, to provide that “[a] fee is not contingent if it is fixed by courts or other public authorities or, in tax matters, if it is determined based on the results of judicial proceedings or the findings of government agencies.” Under the AICPA’s interpretation of the previously-quoted language, a fee is considered determined in tax matters based on the findings of a government agency if the licensee “can demonstrate a reasonable expectation, at the time of a fee arrangement, of substantive consideration” by the government agency with regard to the licensee’s client. The AICPA’s interpretation does not consider an expectation such as this reasonable in the case of the preparation of an original tax return.

The HPLC and IRRC commented that the PCAOB and the SEC raised concerns about the AICPA’s interpretation of the additional contingent fee language referenced in the Board’s proposed rulemaking and asked the Board to reconsider amending the definition of “contingent fee.” The HPLC further asked the Board to evaluate whether the amended definition of “contingent fee” is in conflict with section 3(a)(11) of the act, which requires the Board to promulgate regulations that “establish and maintain a high standard of integrity, objectivity and dignity by certified public accountants, public accountants and firms.”

The PCAOB and the SEC share regulatory authority for establishing independence and other ethical standards for licensees that perform audit services for publicly traded companies. The PCAOB’s and the SEC’s rules consider a licensee’s independence to be impaired if the licensee provides any service to an audit client for a contingent fee during the audit and professional engagement period. While the definition of “contingent fee” in the SEC’s rules is identical to the AICPA’s definition, the SEC does not agree with the AICPA’s interpretation that the language creating an exception, in tax matters, for a fee that is determined based on the results of a judicial proceeding or the findings of a government agency means that a fee is determined when a licensee can demonstrate a reasonable expectation, at the time of the fee arrangement with a client, that a government agency will give substantive consideration to the client’s position. The SEC’s Chief Accountant, in a May 2004 letter to the AICPA, stated that the SEC regards the exception in tax matters as applying only when the determination of the fee is taken out of the hands of the licensee and his client and is made by a court or government agency acting in the public interest. The PCAOB’s own definition of “con-

tingent fee,” adopted in July 2005, does not include the SEC’s exception for fees in tax matters. In its discussion of the definition, the PCAOB, referencing the letter of the SEC’s Chief Accountant to the AICPA, noted that the tax matter exception “may have been misinterpreted in the past” and further noted that it is “largely redundant of the exception for fees fixed by courts or other public authorities.”

Considering the differing views of the AICPA, the SEC and the PCAOB on the meaning of contingent fees, the Board believes that the current definition of contingent fee should not be amended and that § 11.25 should be recast in broader language to take into account the differing requirements of recognized standard-setting bodies. Accordingly, the final-form rulemaking retains the current definition of contingent fee in § 11.1 and revises § 11.25 to provide that a licensee who seeks to collect a contingent fee shall comply with the rules of the AICPA, the PCAOB, the SEC or other recognized public or private standard-setting bodies as applicable to the professional services being performed. The amendments to § 11.25 obviate the need for the Board to consider its legal authority under section 3(a)(11) of the act to promulgate the definition of “contingent fee” originally proposed, although it appears unlikely that a court would regard the Board’s adoption of a definition used by recognized public and private standard-setting bodies as being outside the scope of the Board’s rulemaking power.

#### *§ 11.27. Auditing standards and other technical standards.*

The proposed rulemaking amended § 11.27, which requires a licensee who performs an audit of financial statements as an independent public accountant to comply with Generally Accepted Auditing Standards (GAAS), as well as with other technical standards adopted by the AICPA and other recognized standard-setting bodies, and to provide justification for departures from the standards.

The HPLC and IRRC recommended that § 11.27 be amended to add a reference to the PCAOB as a recognized standard-setting body for technical standards relating to audits. The final-form rulemaking incorporates this recommendation.

#### *§ 11.30. Confidential client information.*

The proposed rulemaking rescinded § 11.30, which provides that a licensee may not disclose a client’s confidential information without the client’s consent except as authorized by section 11.1 of the act (63 P. S. § 9.11a) on the ground that it is redundant of information in the act.

Upon the recommendation of the HPLC and IRRC, the final-form rulemaking retains § 11.30 with amendments.

#### *§ 11.31. Records.*

The proposed rulemaking amended § 11.31 to delete language regarding production of records that appears in section 11 of the act (63 P. S. § 9.11) while retaining the statutory citation for the reader’s reference. The proposed rulemaking also amended § 11.31 to add a provision requiring a licensee “who is requested by a client or former client to furnish a document to which the client is entitled” under section 11 of the act to comply with the request within “a reasonable period of time.”

At the suggestion of the HPLC, the final-form rulemaking further amends § 11.31, for sake of clarity, to include the term “or former client” immediately after the second reference to the word “client.”

IRRC observed that the proposed rulemaking, as published by the Legislative Reference Bureau (LRB) in the *Pennsylvania Bulletin*, did not reflect the full text of § 11.31 as submitted by the Board to IRRC, the HPLC and the SCP/PLC. The Board will advise the LRB to ensure that the final-form rulemaking is published with the complete text of § 11.31.

*§ 11.35. Form of practice.*

Section 11.35 provided that a licensee may practice public accounting only in a sole proprietorship, a partnership or a professional corporation or association. The proposed rulemaking rescinded § 11.35 as inconsistent with the current act, which permits a "qualified association" to become licensed as a "firm." As broadly defined in section 2 of the act, a qualified association may include not only partnerships, professional corporations and professional associations, but also limited liability companies and limited liability partnerships.

Upon the recommendation of the HPLC and IRRC, the final-form rulemaking retains § 11.35 with updated language. Amended § 11.35 provides that a licensee may practice public accounting as a sole practitioner or firm, or as an employee of a sole practitioner or as a member or employee of a firm, subject to the requirements of the act. As previously noted, definitions of "firm" and "qualified association" have been added to § 11.1 as part of the final-form rulemaking.

*§ 11.36. Form of business name; disclosure.*

The proposed rulemaking added § 11.36 as a complementary regulation to section 12(l.3) of the act, which prohibits a licensee from using a business name that is misleading as to any matter, including the identity of members and employees. Section 11.36(a) provides that a firm or sole practitioner may use a fictitious name as a business name, while § 11.36(b) prohibits a sole practitioner from using a business name with the phrases "and Company" or "and Associates" unless he employs at least one other individual who is currently licensed as a CPA or public accountant, who has sat for the CPA examination or who has the educational qualifications to sit for the CPA examination.

Section 11.36(a) was added to clarify the permissibility of a fictitious name, the use of which was restricted under the act prior to the Act 140 amendments. Section 11.36(b) was added based on the Board's belief that because the phrases "and Company" and "and Associates" imply at least the existence of a multi-individual practice (if not a formal entity such as a partnership or professional corporation), a sole practitioner's use of either term could be construed as misleading under section 12(l.3) of the act if he is the only professional-level individual in the practice. Prior to the Act 140 amendments, the act contained an explicit prohibition against a sole practitioner's using the phrase "and Company" or similar designation in his business name unless the name had been in use prior to November 1, 1961.

The HPLC recommended that the Board delete the prohibition in § 11.36(b) in favor of a requirement that a sole practitioner orally disclose his status as a sole practitioner to clients and prospective clients.

The Board believes that an adequate disclosure is acceptable as a less restrictive means of regulating potentially misleading business names than outright prohibition. The Board further believes that for a disclosure to be adequate, it must be made timely and in writing.

The final-form rulemaking amends § 11.36(b) to provide that a sole practitioner who uses a business name

that includes a variation of the phrase "and Company" or "and Associates" must disclose in writing to a potential client that he is a sole practitioner before entering into an engagement agreement with the potential client and must disclose in writing to a current client that he is a sole practitioner before renewing an engagement agreement with the current client.

*§ 11.55. Experience requirements for CPA certification.*

The proposed rulemaking amended § 11.55, incorporating §§ 11.53 and 11.54, so that it would serve as a complementary regulation to section 4.1 of the act (63 P. S. § 9.4a), which sets forth the experience requirements for CPA certification.

Amended § 11.55(a) provides that a candidate who qualified to sit for the CPA examination with a bachelor's degree and 24 semester credits in accounting-related subjects must acquire 3,200 hours of qualifying experience, including 800 hours of attest activity "over at least a 24-month period." Amended § 11.55(a) further provides that a candidate who qualified to sit for the CPA examination with a master's degree and 24 semester credits in accounting-related subjects, or a bachelor's degree and 150 semester credits overall including 36 semester credits in accounting-related subjects, must acquire 1,600 hours of qualifying experience, including 400 hours of attest activity "over at least a 12-month period." A candidate may not receive credit for more than 1,600 hours of qualifying experience in a 12-month period.

The HPLC commented that the phrases "over at least a 24-month period" and "over at least a 12-month period" are confusing and may lead some candidates to conclude that they must acquire more than the 1 or 2 years of experience as set forth in section 4.1 of the act. The final-form rulemaking clarifies § 11.55(a) by providing that a candidate for CPA certification must acquire the required 1,600 hours or 3,200 hours of qualifying experience, as the case may be, during a period of not less than 12 months or during a period of not less than 24 months, respectively.

The HPLC and IRRC recommended that § 11.55(a) be further amended to include language from section 4.1(c) of the act providing that a candidate for CPA certification who first sat for the CPA examination after January 1, 2000, must acquire qualifying experience within 120 months preceding the date of application for CPA certification, while a candidate for CPA certification who first sat for the CPA examination prior to January 1, 2000, is not required to acquire qualifying experience within a particular period of time. The final-form rulemaking adds this language to § 11.55(a).

The proposed rulemaking amended § 11.55(b) and (c) to set forth the types of attest and nonattest activities, respectively, that will serve as qualifying experience depending on whether the candidate is employed in public accounting, private industry or government. The proposed rulemaking deleted "training sessions on the attest function" as an acceptable category of attest experience, because qualifying attest experience should be based on a candidate's actual participation in an attest activity.

The HPLC and IRRC commented that elimination of training sessions on the attest function could adversely affect candidates for CPA certification who have already completed such training sessions with the expectation that they will be accepted by the Board as qualifying attest experience. The HPLC recommended that the Board amend § 11.55(b) to establish a date in the future after which training sessions on the attest function will not be

counted. IRRC recommended that a similar clarification be made to preserve the training experience already obtained by prospective candidates. The final-form rulemaking amends § 11.55(b) to provide that training sessions on the attest function that are completed prior to January 1, 2008, will be accepted as qualifying attest experience. The Board will notify CPA candidates of the deadline by amending the CPA application form and instructions and by posting a notice on the Board's website.

PICPA recommended amendments to the categories of qualifying attest experience in § 11.55(b) that may be acquired by a candidate who is employed in public accounting. Upon the recommendation of PICPA, the final-form rulemaking expands the category of audits of financial statements performed in accordance with GAAS or Generally Accepted Government Auditing Standards to include audits of financial statements performed in accordance with requirements of the PCAOB, and adds a new category that comprises attestation engagements performed in accordance with SSAE, which are promulgated by the AICPA's Auditing Standards Board. PICPA also recommended that § 11.55(b) should include language referencing "[o]ther auditing in accordance with accepted standards that leads to the expression of a written opinion." The proposed rulemaking retained this language and cited as examples reviews regarding internal controls, operational audits, compliance audits and opinions regarding financial forecasts and projections. The final-form rulemaking deletes the reference to financial forecasts and projections because this work is classified in § 11.55(c) as nonattest activity.

The proposed rulemaking added § 11.55(d), which lists types of unacceptable experience. The final-form rulemaking amends § 11.55(d) to address a usage issue raised by the HPLC.

*§ 11.56. Supervision of experience; verification.*

The proposed rulemaking amended § 11.56, which relates to the supervision of experience acquired by a candidate for CPA certification. One of a supervisor's duties is to verify a candidate's experience on a Board-provided form, giving details as to the dates of supervision and the types and hours of experience acquired by the candidate. The proposed rulemaking deleted language referencing a supervisor's responsibility for the accuracy of the verified statement of experience and providing that a supervisor's failure to properly verify a candidate's experience may result in disciplinary action. In place of the deleted language, the proposed rulemaking added a provision stating that a supervisor may not knowingly submit a false or inaccurate verified statement or willfully refuse to submit a verified statement when qualified experience has been acquired.

The HPLC recommended that the Board retain the language in § 11.56 that refers to a supervisor's responsibility for the accuracy of the information he provides to the Board about a candidate's experience and to the supervisor's disciplinary liability for failing to discharge that responsibility. IRRC's comments echoed the HPLC's concerns.

The final-form rulemaking amends § 11.56 to provide that a supervisor is responsible for the accuracy of the verified statement of a candidate's experience, and that a supervisor who knowingly submits a false or inaccurate verified statement, or who refuses to submit a verified statement when qualifying experience has been acquired, will be subject to disciplinary action under the act.

*§ 11.73. Interpretation of chapter.*

The proposed rulemaking deleted § 11.73, which provides that the Board's regulations are not to be construed to be in violation of or inconsistent with the act, on the ground that this requirement is unnecessary, because the Board's obligation to construe its regulations in harmony with the act is inherent in the primacy of a statute over the regulations promulgated under authority of the statute.

Upon the recommendation of the HPLC and IRRC, the final-form rulemaking retains § 11.73, with amendments.

*Compliance with PCAOB*

The HPLC asked the Board to review the entirety of its rulemaking to determine whether additional changes are needed to comply with the requirements of the PCAOB. The Board does not believe additional changes are required.

*Additional Rulemaking*

The proposed rulemaking referenced the Board's intention to submit additional rulemaking. The HPLC asked what was the anticipated delivery date of additional rulemaking.

The Board anticipated that delivery of proposed rulemaking regarding CPE requirements would occur in Spring 2007. The Board also anticipated that proposed rulemaking regarding an increase in biennial renewal fees, based on a recent analysis conducted by the Department of State's Bureau of Finance and Operations, would likewise occur in Spring 2007.

*Fiscal Impact and Paperwork Requirements*

The final-form rulemaking will not have a fiscal impact on, or create additional paperwork for, the regulated community, the general public or the Commonwealth and its political subdivisions. The final-form rulemaking will require the Board to modify its application forms and instructions.

*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 February 23, 2005, the Board submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 1573, 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 sections 5.1(e) and (j.2) of the Regulatory Review Act (71 P. S. §§ 745.5a(e) and (j.2)), on April 18, 2007, the final-form rulemaking was approved by the HPLC. On May 2, 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 May 3, 2007, and approved the final-form rulemaking.

*Additional Information*

Persons who require additional information about the final-form rulemaking should submit inquiries to Kristopher J. Adams, Administrator, State Board of Ac-

countancy, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-1404, ST-ACCOUNTANCY@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 35 Pa.B. 1573.

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

*Order*

The Board, acting under authority of the act, orders that:

(a) The regulations of the Board, 49 Pa. Code, Chapter 11, are amended by adding § 11.36, deleting §§ 11.6, 11.41, 11.53 and 11.54, and amending §§ 11.1, 11.5, 11.7–11.9, 11.21, 11.25, 11.27, 11.28, 11.30, 11.31, 11.35, 11.55, 11.56 and 11.73 to read as set forth in Annex A.

*(Editor's Note:* The proposal to rescind § 11.3, included in the proposed rulemaking published at 35 Pa.B. 1573, has been withdrawn by the Board.)

(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 LRB as required by law.

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

WILLIAM J. PARK, CPA,  
*Chairperson*

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 37 Pa.B. 2355 (May 19, 2007).)

**Fiscal Note:** Fiscal Note 16A-559 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 11. STATE BOARD OF ACCOUNTANCY  
GENERAL PROVISIONS**

**§ 11.1. Definitions.**

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

*AICPA*—American Institute of Certified Public Accountants.

*Act*—The CPA Law (63 P. S. §§ 9.1–9.16b).

*Attest activity*—An examination, audit, review, compilation or other agreed-upon procedure with respect to

financial information, together with the issuance of a report expressing or disclaiming an opinion or other assurance on the information.

*Board*—The State Board of Accountancy of the Commonwealth.

*CPA*—Certified public accountant.

*Candidate*—A person sitting for an examination.

*Certificate of completion*—A document prepared by the program sponsor which indicates that a licensee completed a continuing education program, the credit hours earned and the date and name of the program.

*Client*—The person or entity which retains a licensee for the performance of professional services.

*Contingent fee*—A fee established for the performance of a service under an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of the service.

*Continuing education program*—A group, self-study or correspondence program for which continuing education credit is given.

*Credit hour*—A unit of continuing education representing 50 minutes of participation.

*Engagement*—An undertaking by a licensee embodied in an agreement between the licensee and the client which defines the scope and terms of the services.

*Enterprise*—A person or entity, whether organized for profit or not, with respect to which a licensee performs professional services.

*Financial statement*—

(i) A statement and footnotes related to the statement that purport to show financial position which relates to a point in time or changes in financial position which relate to a period of time.

(ii) The term includes statements which use a cash or other incomplete basis of accounting.

(iii) The term also includes balance sheets, statements of income, statements of retained earnings, statements of changes in financial position and statements of changes in owner's equity.

(iv) The term does not include incidental financial data included in management advisory services reports to support recommendations to a client, tax returns or supporting schedules.

*Firm*—A qualified association that is a licensee.

*GAAP*—Generally Accepted Accounting Principles.

*GAAS*—Generally Accepted Auditing Standards.

*GAGAS*—Generally Accepted Government Auditing Standards.

*Group program*—An educational process designed to permit a participant to learn a given subject through interaction with an instructor and other participants.

*Inactive status*—

(i) Status of a CPA or public accountant who has returned his license to practice public accounting to the Board and who has requested in writing that the Board place his name on the inactive roll.

(ii) The term does not apply to the status of a CPA or public accountant whose license to practice public ac-

counting has expired for failure to comply with requirements for biennial renewal of licensure.

*Instructional design*—A teaching plan that considers the organization and interaction of program materials as well as the method of presentation such as lecture, seminar, workshop or program instruction.

*Interactive individual study program*—A continuing education program designed to use interactive learning methodologies that simulate a classroom learning process by employing software, other courseware or administrative systems that provide significant ongoing interactive feedback to the learner regarding the learning process which issues a certificate of completion.

*Licensee*—

(i) An individual who is certified by or registered with the Board and holds a current license to practice under section 8.2 of the act (63 P. S. § 9.8b) or a qualified association that holds a current license to practice under section 8.8 of the act (63 P. S. § 9.8h).

(ii) The term does not include an individual who is on inactive status under section 8.2(a.1) of the act or who does not otherwise hold a current license.

*New candidate*—A candidate who is taking the examination in this Commonwealth for the first time.

*Noninteractive individual study program*—A continuing education program designed to permit a participant to learn a given subject without interaction with an instructor or interactive learning methodologies which issues a certificate of completion upon the participant's achieving a 70% minimum grade on a written examination or workbook.

*PCAOB*—Public Company Accounting Oversight Board.

*Professional service*—A service performed or offered to be performed by a licensee for a client in the course of the practice of public accounting.

*Professor*—An instructor who teaches courses in continuing education subject areas at an accredited university or college.

*Program sponsor*—A party who has assumed the responsibility for presenting continuing education programs.

*Public accounting*—Offering to perform or performing for a client or potential client:

(i) Attest activity.

(ii) Other professional services involving the use of accounting skills, including, but not limited to, management advisory or consulting services, business valuations, financial planning, preparation of tax returns or furnishing of advice on tax matters by a person holding out as a CPA, public accountant or firm.

*Public communication*—A communication made in identical form to multiple persons as to the world at large, such as by television, radio, motion picture, newspaper, pamphlet, mass mailing, letterhead, business card or directory.

*Qualified association*—An association as defined in 15 Pa.C.S. § 102 (relating to definitions) that is incorporated or organized under the laws of the Commonwealth or any other state or foreign jurisdiction if the organic law under which the association is incorporated or organized does not afford the shareholders, partners, members or other owners of equity interest in the association or the officers, employees or agents of the association greater immunity

than is available to the shareholders, officers, employees or agents of a professional corporation under 15 Pa.C.S. § 2925 (relating to professional relationship retained).

*SEC*—Securities and Exchange Commission.

*SSAE*—Statement on Standards for Attestation Engagements.

*SSARS*—Statement of Standards on Accounting and Review Services.

### § 11.5. Temporary practice in this Commonwealth.

(a) *Requirements for temporary practice.* A CPA, or qualified association composed of CPAs, of another state may temporarily practice public accounting in this Commonwealth, if the CPA or qualified association:

(1) Holds a current license or registration to practice public accounting in the other state.

(2) Concurrently practices public accounting in the other state.

(3) Obtains from the Board a temporary practice permit prior to performing the temporary work.

(b) *Temporary practice permit.* The temporary practice permit:

(1) Allows the permitholder to work for not more than 500 hours in this Commonwealth during a 12-month period, except that this 500 hour limitation does not apply if the permitholder is working only on a single, nonrecurring engagement.

(2) Is valid for not more than 12 months.

(3) Is renewable if the permit was not granted for a single, nonrecurring engagement in excess of 500 hours.

(c) *Failure to meet requirements for temporary practice.* A CPA or qualified association of CPAs of another state that desires to practice public accounting in this Commonwealth but does not qualify for a temporary practice permit shall comply, as appropriate, with sections 5, 8.2 and 8.8 of the act (63 P. S. §§ 9.5, 9.8b and 9.8h).

(d) *Exemption from requirement of temporary practice permit.* Subsection (a) does not apply to a CPA or qualified association of CPAs of another state that, while not holding out as a CPA, public accountant or licensee, offers and renders in this Commonwealth bookkeeping and similar technical services or other services involving the use of accounting skills, including the preparation of tax returns and the preparation of financial information without issuing a report or other communication that expresses an opinion or assurance on the statements.

### § 11.6. (Reserved).

### § 11.7. Use of the designation "public accountant" and the abbreviation "PA."

(a) Only the following individuals and entities may use the designation "public accountant," the abbreviation "PA," or any other title, designation, words, letters or abbreviation tending to indicate that the user is a public accountant or is composed of public accountants:

(1) An individual who holds a public accountant registration and a current license from the Board.

(2) An individual who holds a certificate of certified public accountant from the Board or who has received written notification from the Board that he is qualified to receive a certificate of certified public accountant.

(3) A qualified association that holds a current license from the Board.



(b) An individual or qualified association engaged in the practice of public accounting may not use the designation "public accountant," the abbreviation "PA" or any other title, designation, words, letters or abbreviation tending to indicate that the user is a public accountant or composed of public accountants unless the user holds a current license from the Board.

(c) The following are examples of unlawful use under this section:

(1) An individual who is registered by the Board as a public accountant but who does not hold a current license uses a business card bearing the designation "public accountant." *Explanation:* The individual shall obtain a current license to use the designation "public accountant."

(2) An individual who is certified by the Board as a CPA but who does not hold a current license signs tax returns that he prepares for clients as "John Doe, PA." *Explanation:* The individual shall obtain a current license to use the abbreviation "PA" because the preparation of tax returns while using such an abbreviation constitutes the practice of public accounting.

(d) An individual or entity that violates this section shall be subject to disciplinary action, as appropriate, under sections 9.1, 12, 14 and 16 of the act.

**§ 11.8. Use of the designation "certified public accountant" and the abbreviation "CPA" in the practice of public accounting.**

(a) Only the following individuals and entities may use the designation "certified public accountant," the abbreviation "CPA" or any other designation, title, words, letters or abbreviation tending to indicate that the user is a CPA or composed of CPAs, while engaged in the practice of public accounting:

(1) An individual who holds a certificate of certified public accountant and current license from the Board.

(2) An individual who holds a public accountant registration and current license from the Board and who has received written notification from the Board that he is qualified to receive a certificate of certified public accountant.

(3) A qualified association that holds a current license from the Board.

(b) An individual or qualified association engaged in the practice of public accounting may not use the designation "certified public accountant," the abbreviation "CPA" or any other title, designation, words, letters or abbreviation tending to indicate that the user is a CPA or composed of CPAs unless the user holds a current license from the Board.

(c) The following are examples of unlawful use under this section:

(1) An individual who is certified by the Board as a CPA but who does not hold a current license offers to establish a bookkeeping system for a potential client and tells the potential client that he is a "certified public accountant." *Explanation:* The individual shall obtain a current license to use the designation "certified public accountant" because offering to perform a service related to accounting while using the designation constitutes the practice of public accounting.

(2) An unlicensed partnership comprised of two individuals—"Smith" and "Brown"—who possess certificates of certified public accountant and current licenses from the Board offers to perform tax preparation services for clients under the business name "Smith & Brown, CPAs."

*Explanation:* The partnership, being a qualified association, shall obtain a current license to use the designation "CPAs" because offering to prepare tax returns while using the designation constitutes the practice of public accounting.

(d) An individual or entity that violates this section shall be subject to disciplinary action, as appropriate, under sections 9.1, 12, 14 and 16 of the act.

**§ 11.9. Use of the designation "certified public accountant" and the abbreviation "CPA" solely as mark of achievement by individual without current license.**

(a) An individual who holds a certificate of certified public accountant but does not maintain a current license to practice public accounting, or an individual who has received notification from the Board that he is qualified to receive a certificate of certified public accountant, may use the designation "certified public accountant" and the abbreviation "CPA" solely as a mark of achievement subject to the following conditions:

(1) The certificate of certified public accountant has not been suspended or revoked.

(2) The individual has notified the Board in writing that he wishes to be placed on inactive status.

(3) The individual does not practice or offer to practice public accounting and is not a member or employee of a public accounting firm.

(4) The individual does not hold himself out to be in the practice of public accounting when performing or offering to perform accounting, bookkeeping, tax or accounting-related matters.

(5) The individual does not use the designation "certified public accountant" or the abbreviation "CPA" in advertising, including listings and advertisements in phone directories, newspapers, magazines, electronic media and indoor and outdoor signs.

(6) The individual does not display the certificate of certified public accountant in a manner that suggests he is authorized to practice public accounting.

(7) The individual's use of the designation "certified public accountant" and the abbreviation "CPA" under this section is limited to business cards, letterhead or other stationery, and resumes or curriculum vitae, subject to the following conditions:

(i) The word "inactive" must appear immediately adjacent to the designation or abbreviation.

(ii) Business cards, letterhead and other stationery must include the name of the individual's employer and the individual's job title or, if the individual is self-employed, the nature of the individual's business.

(b) The following are examples of unlawful use under this section:

(1) The holder of a certificate of certified public accountant whose license is on inactive status has a sign in the window of his home that bears his name and the abbreviation "CPA." *Explanation:* The sign is an offer to practice public accounting, which requires possession of a current license.

(2) The holder of a certificate of certified public accountant whose license is on inactive status and who is employed in private industry uses a business card that bears his name, the abbreviation "CPA," his employer's name and his job title. The individual shows the business card to an acquaintance and offers to set up an account-

ing procedure. *Explanation:* The offer is an offer to practice public accounting, which requires possession of a current license.

(c) An individual or entity that violates this section shall be subject to disciplinary action, as appropriate, under sections 9.1, 12, 14 and 16 of the act.

#### RELATIONS WITH CLIENTS AND THE PUBLIC

##### § 11.21. Independence.

A licensee may not perform an attest activity for an enterprise in a manner to imply that he is acting as an independent public accountant with respect thereto unless he is independent with respect to the enterprise. Independence will be considered impaired when the licensee has not complied with the independence rules and requirements of a recognized public or private standard-setting body as applicable under the circumstances. Examples of standard-setting bodies include the AICPA, PCAOB, SEC, General Accounting Office and Department of Labor.

##### § 11.25. Contingent fees.

A licensee who seeks to collect a contingent fee shall comply with the rules of the AICPA, PCAOB, SEC and other recognized public or private standard-setting bodies as applicable to the professional services being performed.

##### § 11.27. Auditing standards and other technical standards.

(a) *Auditing standards.* A licensee may not permit his name to be associated with financial statements to imply that he is acting as an independent public accountant with respect to the financial statements unless he has complied with applicable GAAS. Statements on auditing standards issued by the AICPA or other pronouncements having similar generally recognized authority are considered to be interpretations of GAAS. A licensee shall justify any departures from the standards.

(b) *Other technical standards.* A licensee shall comply with other technical standards promulgated by bodies of the AICPA, PCAOB or other recognized authorities designated to establish the standards. A licensee shall justify any departures from the standards.

##### § 11.28. Accounting principles.

A licensee may not express an opinion that financial statements are presented in conformity with GAAP if the financial statements contain any departure from GAAP that has a material effect on the financial statements taken as a whole, unless the licensee can demonstrate that by reason of unusual circumstances the financial statements would otherwise be misleading. In that case, the report of the licensee must describe the departure, the approximate effects thereof if practicable, and the reasons why compliance with the principle would result in a misleading statement. For purposes of this section, GAAP are considered to be defined by pronouncements issued by the Financial Accounting Standards Board and its predecessor entities and similar pronouncements issued by other entities having similar generally recognized authority.

##### § 11.30. Confidential client information.

Except to the extent provided by section 11.1 of the act (63 P. S. § 9.11a), a licensee may not disclose confidential information pertaining to a client obtained in the course of performing professional services unless the client consents to the disclosure.

##### § 11.31. Records.

A licensee who is requested by a client or former client to furnish a document to which the client or former client is entitled under section 11 of the act (63 P. S. § 9.11) shall comply with the request within a reasonable period of time.

##### § 11.35. Form of practice.

A licensee may practice public accounting as a sole practitioner or firm, or as an employee of a sole practitioner or a member or employee of a firm, subject to the requirements of the act.

##### § 11.36. Form of business name; disclosure.

(a) A licensee that is a firm or sole practitioner may use a fictitious name as a business name.

(b) A sole practitioner who uses a business name bearing the words "and company," "and associates" or a variation of those words shall disclose in writing to a client that he is a sole practitioner before renewing an engagement agreement with the client and shall disclose in writing to a potential client that he is a sole practitioner before entering into an engagement agreement with the potential client.

##### § 11.41. (Reserved).

#### EXPERIENCE

##### § 11.53. (Reserved).

##### § 11.54. (Reserved).

##### § 11.55. Experience requirements for CPA certification.

###### (a) *General requirements.*

(1) A candidate for CPA certification who qualified for the CPA examination based on possession of a bachelor's degree and completion of 24 semester credits in relevant subjects shall have acquired 3,200 hours of qualifying experience, including a minimum of 800 hours of attest activity, over a period of not less than 24 months.

(2) A candidate for CPA certification who qualified for the CPA examination based on possession of a master's degree or other postgraduate degree and completion of 24 semester credits in relevant subjects shall have acquired 1,600 hours of qualifying experience, including a minimum 400 hours of attest activity, over a period of not less than 12 months.

(3) A candidate for CPA certification who qualified for the CPA examination based on possession of a bachelor's degree or higher degree and completion of 150 semester credits of postsecondary education including 36 semester credits in relevant subjects shall have acquired 1,600 hours of qualifying experience, including a minimum 400 hours of attest activity, over a period of not less than 12 months.

(4) A candidate who initially sat for the CPA examination after January 1, 2000, shall have acquired the qualifying experience required under paragraphs (1)—(3) within 120 months preceding the date of application for CPA certification. A candidate who initially sat for the CPA examination before January 1, 2000, is not subject to any time limitation regarding the acquisition of qualifying experience.

(5) A candidate may not receive credit for more than 1,600 hours of qualifying experience in a 12-month period. A candidate may acquire all hours of qualifying experience in attest activity.

(b) *Attest activity.* A candidate's attest activity must be in one or more of the following areas:

- (1) Candidates employed in public accounting:
  - (i) Audits of financial statements in accordance with GAAS, GAGAS or PCAOB.
  - (ii) Reviews of financial statements in accordance with SSARS.
  - (iii) Compilations of financial statements with complete disclosure in accordance with SSARS.
  - (iv) Attestation engagements in accordance with SSAE.
  - (v) Other auditing in accordance with accepted standards that leads to an expression of a written opinion including:
    - (A) Reviews regarding internal control.
    - (B) Operational audits.
    - (C) Compliance audits.
    - (D) Expressing an opinion on financial forecasts and projections.
  - (vi) Training sessions on the attest function completed before January 1, 2008.
- (2) Candidates employed in private industry:
  - (i) Performance of an independent internal audit function.
  - (ii) Compliance audits of government contracts performed on behalf of a government agency that result in the issuance of an opinion or report.
  - (iii) Training sessions on the attest function completed before January 1, 2008.
- (3) Candidates employed in Federal, State or local government:
  - (i) Performance of an independent internal audit function.
  - (ii) Audits performed on behalf a government audit agency that results in the issuance of an opinion or report.
  - (iii) Training sessions on the attest function completed before January 1, 2008.

(c) *Nonattest activity.* A candidate's nonattest activity must be in one or more of the following areas:

- (1) Preparation of income and nonprofit tax returns.
- (2) Tax research that is properly documented.
- (3) Representation before a government agency on a tax matter.
- (4) Financial forecasts, analyses and projections.
- (5) Management advisory services that meet AICPA standards.
- (6) Management and supervision of accounting functions and preparing financial statements for profit or not-for-profit entities.
- (7) Professional accounting-related work in a public accounting firm.

(d) *Nonqualifying experience.* A candidate will not receive credit for the following types of experience:

- (1) Experience that was supervised by an individual who did not meet the requirements of § 11.56 (relating to supervision of experience; verification) at the time the experience was obtained.
- (2) Experience acquired while self-employed.
- (3) Experience acquired as a partner in a partnership.

(4) Experience comprising nonprofessional work, including recruiting, industrial engineering, administration, bookkeeping and appraisals.

(5) Paraprofessional work that does not comply with subsection (c)(7).

**§ 11.56. Supervision of experience; verification.**

(a) To receive credit for experience under § 11.55 (relating to experience requirements for CPA certification), a candidate for CPA certification shall acquire the experience under the supervision of an individual who meets the following conditions at the time the experience is acquired:

- (1) Holds a current license to practice as a CPA or public accountant in this Commonwealth or another jurisdiction.
- (2) Either employs the candidate or is employed by the same employer as the candidate. The supervisor may not be a member of a public accounting firm that is independent of the entity that employs the candidate.
- (3) Is responsible for and personally evaluates the candidate's work.

(b) A supervisor shall submit a verified statement regarding the candidate's experience on a form provided by the Board, specifying the dates of supervision and the types and hours of experience acquired.

(c) A supervisor who submits a verified statement shall be responsible for its accuracy. A supervisor who knowingly submits a false or inaccurate verified statement or who refuses to submit a verified statement when qualified experience has been acquired shall be subject to disciplinary action under section 9.1 of the act (63 P. S. § 9.9a).

**INTERPRETATION**

**§ 11.73. Interpretation of chapter.**

This chapter may not be construed in a manner that would be in violation of or inconsistent with the act.

[Pa.B. Doc. No. 07-1343. Filed for public inspection July 27, 2007, 9:00 a.m.]

**Title 55—PUBLIC WELFARE**

**DEPARTMENT OF PUBLIC WELFARE**

**[55 PA. CODE CH. 1163]**

**Inpatient Hospital Services**

The Department of Public Welfare (Department), under sections 201 and 443.1 of the Public Welfare Code (code) (62 P. S. §§ 201 and 443.1), amends Chapter 1163 (relating to inpatient hospital services) to read as set forth in Annex A.

*Omission of Proposed Rulemaking*

The Department is omitting notice of proposed rulemaking in accordance with section 204(1)(iv) and (3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(1)(iv) and (3)), known as the Commonwealth Documents Law (CDL), and 1 Pa. Code § 7.4(1)(iv) and (3) because:

- The Department finds that publication of these amendments as proposed rulemaking is contrary to the public interest. The primary purpose of these amendments is to limit the Department's payment of Medicare cost-sharing amounts for inpatient hospital services rendered to dual eligible Medical Assistance (MA) recipients. This final-omitted rulemaking will enable the Department to both realize substantial cost-savings and to make its Medicare cost-sharing payment policies uniform for all providers and services.

- The Department finds that notice of proposed rulemaking is, under the circumstances, impracticable and unnecessary. The Department has engaged in public outreach through which the Department has already notified affected parties of the promulgation of these amendments, and has solicited and received input from the hospital industry and other interested persons. The Department has given careful consideration to this public input in developing this final-omitted rulemaking. The Department believes that publishing notice of proposed rulemaking is not likely to result in additional comments that are substantially different than those already received and considered in developing the regulations.

- This final-omitted rulemaking relates to reimbursement for inpatient hospital services under the MA Program, which is a Commonwealth grant or benefit.

#### *Purpose*

The purpose of this final-omitted rulemaking is to limit the Department's payment of Medicare cost-sharing amounts for inpatient hospital services rendered to dual eligible MA recipients in the same manner as the Department's payments of Medicare cost-sharing payments for all other services.

#### *Background*

Under the Medicare Program, Medicare beneficiaries receive coverage of inpatient hospital services, skilled nursing facility services and hospice services through Medicare Part A, and coverage of physician services, hospital outpatient services and certain other outpatient services through Medicare Part B. Medicare beneficiaries participate in the costs of both their Medicare Part A and Part B services by paying deductibles and coinsurance payments. These payments are generally referred to as "cost-sharing."

Some Medicare beneficiaries are also eligible for MA under the Commonwealth's MA Program. Other Medicare beneficiaries, known as Qualified Medicare Beneficiaries (QMBs), are not eligible for the full scope of MA benefits but, because of their income, cannot afford to pay Medicare cost-sharing payments. Under Federal law, the Department has paid Medicare cost-sharing amounts for both dual eligible recipients and QMBs; however, historically those payments were subject to certain conditions. Immediately prior to 1994, the Department paid Medicare cost-sharing amounts only if the applicable MA fee or payment for the service exceeded the Medicare payment amount received by the provider. In these instances, the Department reimbursed Medicare cost-sharing amounts up to the difference between the MA fee or payment and the Medicare payment amount. For example, if the Medicare approved payment amount for a service equaled \$100 and the beneficiary's Medicare coinsurance amount equaled 20% or \$20, the provider would receive payment of \$80 from Medicare. If the MA fee for the same service equaled \$90, the Department would pay \$10 of the \$20 coinsurance.

In 1994, the United States Court of Appeals for the Third Circuit ruled in *Pennsylvania Medical Society v. Snider*, 29 F.3d 886 (3rd Cir. 1994) (*PMS*) that the Department was obligated to pay providers for the full cost sharing amounts, including coinsurance and deductibles, for QMBs. The Department amended the Commonwealth's Title XIX State Plan and its payment policies to comply with the Court's ruling. The Department, however, made no change in its regulations. To the extent the regulations prescribed cost-sharing payment different than Federal law, as construed by the Third Circuit in *PMS*, the Department considered the regulations superseded.

Thereafter, Congress amended section 1902(n)(2) of the Social Security Act (42 U.S.C.A. § 1396a(n)(2)), regarding State plans for MA, as part of the Balance Budget Act of 1997 (BBA) (Pub.L. No. 105-33, § 4714(a)), to state, in pertinent part, that:

[A] State is not required to provide any payment for any expenses incurred relating to payment for deductibles, coinsurance, or copayments for Medicare cost-sharing to the extent that payment under title XVIII for the service would exceed the payment amount that otherwise would be made under the State plan under this [title XIX] for such service if provided to an eligible recipient other than a Medicare beneficiary.

The BBA authorized, but did not require, states to limit payments for cost-sharing amounts as the Department had prior to *PMS*. Following enactment of the BBA, the Department took the necessary steps, including the submission of a new State plan amendment (SPA 97-08), to reinstate the payment policies that had been amended following *PMS*. Because the Department had not amended its regulations as a result of *PMS*, the Department did not issue new regulations or amendments to its regulations in response to the BBA.

Although SPA 97-08 amended those portions of the State Plan that had been changed after *PMS*, it did not amend the methods and standards for establishing payment rates for inpatient hospital services set forth in the Commonwealth's approved Title XIX State Plan. Nor did it alter the manner in which MA payments for these services are calculated under the Department's regulations, including payments relating to inpatient services to dual eligible recipients and QMBs. Rather, the SPA indicated that MA fees and payments would be determined and limited in accordance with the provisions of the State Plan and implementing Department regulations for the service.

Since 1984, § 1163.66 (relating to third-party liability) has specified a different MA payment for Medicare cost-sharing amounts for inpatient hospital services than other services. Instead of comparing the Medicare payment received by the provider with the applicable MA payment, § 1163.66 requires a comparison of the Medicare cost-sharing amount with the applicable MA diagnosis related group (DRG) payment for the hospitalization and, if less, provides for a payment up to the DRG amount less other resources available for the inpatient services. If the previous example involved inpatient hospital services, and the beneficiary had no other third party resources, the MA payment under § 1163.66 would be \$20. Now, the Department has determined that it is appropriate to amend its regulations to limit cost-sharing payments for inpatient services to conform its payment policies to those used for all other services.

*Requirements*

This final-omitted rulemaking amends § 1163.66 to limit MA payment of cost sharing amounts for inpatient hospital services to hospital inpatients who are MA recipients covered on a primary basis by Medicare Part A. As a result of the final-omitted rulemaking, the Department will make an MA payment for Medicare cost-sharing amounts only if the applicable DRG payment, including an outlier payment, for the hospitalization exceeds the Medicare payment amount received by the provider. In these instances, the Department will reimburse Medicare cost-sharing amounts up to the difference between the applicable DRG payment, including an outlier payment, and the Medicare payment amount. The total MA payment combined with the amount paid by Medicare Part A, exclusive of cost-sharing, and amounts paid by other available resources will be no greater than the applicable DRG payment amount, including an outlier payment, that would be made under the Department's DRG regulations and approved State Plan for inpatient hospital services if the MA recipient were not also eligible for coverage under Medicare Part A. As further limitations, no co-payment or deductible, if any, will be paid in excess of the applicable DRG or per diem amounts that would be due under the fee-for-service MA Program or in excess of the maximum cost-sharing amounts. This requirement will apply to inpatient hospital services with discharge dates on or after July 1, 2007.

*Affected Individuals and Organizations*

Acute care general hospitals enrolled as providers in the MA Program will be affected by this final-omitted rulemaking.

*Accomplishments and Benefits*

Adoption of these amendments by final-omitted rulemaking will enable the Department to both realize substantial cost-savings and to make its Medicare cost-sharing payment policies uniform for all providers and services.

*Fiscal Impact*

The amended payment policies for inpatient hospital services rendered to dual eligible MA recipients will result in reduced payments to hospitals enrolled in the MA Program. The Commonwealth anticipates savings of \$30 million (\$13.753 million in State funds) in Fiscal Year 2007-2008 as the result of this final-omitted rulemaking.

*Public Comment*

Although this regulation is being adopted without publication as proposed rulemaking, interested persons are invited to submit written comments, suggestions or objections to the Department of Public Welfare, Office of Medical Assistance Programs, Attention: Regulations Coordinator, c/o Deputy Secretary's Office, Room 515, Health and Welfare Building, Harrisburg, PA 17102. Comments will be reviewed and considered for subsequent revision of the regulation.

Persons with a disability who require an auxiliary aid or service may submit comments by using the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

*Regulatory Review Act*

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on June 5, 2007, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chair-

persons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. On the same date, the regulation was submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P.S. §§ 732-101—732-506).

Under section 5.1(j.1) and (j.2) of the Regulatory Review Act, on June 25, 2007, the final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 19, 2007, and approved the final-omitted rulemaking.

*Findings*

The Department finds that:

(1) Notice of proposed rulemaking is omitted in accordance with section 204(1)(iv) and (3) of the CDL and 1 Pa. Code § 7.4(1)(iv) and (3) because this rulemaking relates to Commonwealth grants and benefits.

(2) The adoption of this regulation in the manner provided by this order is necessary and appropriate for the administration and enforcement of the code.

(3) A delay in the effective date of this rulemaking would be impracticable, unnecessary and contrary to the public interest since it would significantly reduce the cost-savings associated with this change and would continue to maintain a disparate payment policy for inpatient hospital providers.

*Order*

The Department, acting under sections 201 and 443.1 of the code, orders that:

(a) The regulations of the Department, 55 Pa. Code Chapter 1163, are amended by amending § 1163.66 to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order and Annex A to the Offices of General Counsel and Attorney General for approval as to legality and form as required by law.

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

(d) This order shall take effect immediately and apply to inpatient hospital services with discharge dates on or after July 1, 2007.

ESTELLE B. RICHMAN,  
*Secretary*

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 37 Pa.B. 4153 (July 28, 2007).)

**Fiscal Note:** 14-511. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 55. PUBLIC WELFARE**

**PART III. MEDICAL ASSISTANCE MANUAL**

**CHAPTER 1163. INPATIENT HOSPITAL SERVICES**

**Subchapter A. ACUTE CARE GENERAL HOSPITALS UNDER THE PROSPECTIVE PAYMENT SYSTEM**

**PAYMENT FOR HOSPITAL SERVICES**

**§ 1163.66. Third-party liability.**

(a) Hospitals shall utilize the available third-party resources for services a recipient receives while in the hospital. Medicare lifetime reserve days are considered available resources.

(b) If expected payment by a third party resource is not realized, the hospital may bill the MA Program.

(c) If the hospital receives reimbursement from a third-party subsequent to payment from the Department, the hospital shall repay the Department by submitting a claim adjustment.

(d) If a recipient or the legal representative of a recipient requests a copy of the hospital invoice, the hospital shall submit a copy of the invoice and the request to the Bureau of Claim Settlement, MA Recovery Unit, at the address specified in the Provider Handbook. The Bureau of Claim Settlement will forward the requested copy to the requestor and take follow-up action necessary to ensure the repayment of MA expenditures.

(e) For a hospitalization with a discharge date on or after July 1, 2007, if a recipient is entitled to Medicare Part A benefits, the Department will not pay any deductible and coinsurance amounts if the Medicare payment exceeds the applicable DRG payment, including any outlier payments. If the Medicare payment is less than the applicable DRG payment including any outlier payments, the Department pays Medicare deductible and coinsurance amounts to the extent that the Department's payment, the Medicare payment and any other resources available to the recipient for the hospital inpatient care combined do not exceed the applicable DRG payment, including any outlier payments. The Department will not pay more than the maximum deductible and coinsurance amounts.

(f) Except as specified in subsection (g), if a recipient is entitled to hospital insurance benefits other than Medicare Part A, the Department will pay the applicable DRG payment rate minus the insurer's liability amount and other resources available to the recipient for hospital care, including any Medicare Part B payment.

(g) If the resources available to a recipient for inpatient hospital care equal or exceed the Department's applicable DRG payment rate, the Department will make no payment for the hospital care.

(h) The hospital shall utilize resources available through Medicare Part B for those services provided in the hospital that are covered and approved for payment by Medicare.

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and commencement of slot operations), amends Chapter 461a (relating to slot machine testing and control) and rescinds Chapter 465, 466 and 467 to read as set forth in Annex A.

*Purpose of the Final-Form Rulemaking*

Under the authority granted to the Board under 4 Pa.C.S. § 1203 (relating to temporary regulations), the Board initially adopted temporary regulations in Chapter 465 at 36 Pa.B. 910 (February 18, 2006), in Chapter 466 at 36 Pa.B. 3416 (July 1, 2006) and in Chapter 467 at 36 Pa.B. 3954 (July 22, 2006). Under 4 Pa.C.S. § 1203(b), the temporary regulations expired on July 5, 2007.

The Board is adopting Chapters 465a, 466a and 467a, amending Chapter 461a and rescinding Chapter 465, 466 and 467 to replace the Board's temporary regulations with the permanent regulations.

*Explanation of Chapters 465a, 466a and 467a*

Section 465a.1 (relating to accounting records) requires slot machine licensees to keep records pertaining to revenues and expenses. Accounting records must be maintained using a double entry system of accounting that is consistent with generally accepted accounting principals. It also lists supporting records that must be kept.

Section 465a.2 (relating to internal control systems and audit protocols) requires the submission of a slot machine licensee's system of internal controls at least 90 days prior to the commencement of gaming. This section lists the items that must be included in the internal controls, requires certain attestations by the chief executive officer and requires Board approval of the internal controls. It also sets forth the process for submission and review of amendments to the internal controls.

Section 465a.3 (relating to forms, records and documents) contains general formatting requirements which apply to any forms the slot machine licensee may use.

Section 465a.4 (relating to standard financial and statistical reports) requires the filing of periodic financial and statistical reports and allows the Board to request additional reports in certain circumstances.

Section 465a.5 (relating to annual audit; other reports; suspicious activity and currency transaction reporting) requires each slot machine licensee to obtain an annual audit and submit copies of the audit to the Board. It also requires the filing of: additional reports from the auditors; replies to the audit findings and recommendations; and copies of fillings with the SEC or other regulatory agencies. This section also requires submission of certain reports when the slot machine licensee changes auditors and that copies of a Suspicious Activity Report-Casino or Currency Transaction Report by Casino filed with the Federal government also be filed with the Board.

Section 465a.6 (relating to retention, storage and destruction of books, records and documents) contains detailed provisions specifying what records must be kept, how long various records must be kept and how records must be made available to the Board.

Section 465a.7 (relating to complimentary services or items) requires slot machine licensees to develop internal controls to govern the issuance of complimentary services or items. It also requires monthly reporting of each patron who received \$10,000 or more in complimentary cash and noncash gifts within a 5-day period.

Section 465a.8 (relating to licensed facility) requires licensed facilities to have surveillance systems, alarm systems for emergency exits and to provide onsite facil-

## Title 58—RECREATION

### PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 461a, 465, 465a, 465b, 466, 466a, 466b, 467 AND 467a]

#### Slot Machine Testing and Control; Accounting and Internal Controls; Slot Computer Systems; Commencement of Slot Operations

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, 1322 and 1520 (relating to regulatory authority of board; slot machine accounting controls and audits; and automated teller machines), adopts Chapters 465a, 466a and 467a (relating to accounting and internal controls; slot computer systems;

ities for use by the Board, the Department of Revenue and the Pennsylvania State Police.

Section 465a.9 (relating to surveillance system; surveillance department control; surveillance department restrictions) sets forth the requirements for surveillance systems, including who has access to the monitoring room, what areas must be covered and the capabilities of the system. It also requires the maintenance of a log of surveillance activities, notice to the Board of system malfunctions and requires Board approval of staffing. It also places restrictions on employment of surveillance department employees and requires that a monitoring room entry log be maintained.

Section 465a.10 (relating to surveillance system recording formats) specifies the recording formats that are acceptable for surveillance systems.

Section 465a.11 (relating to slot machine licensee's organization) contains requirements for organization charts that are to be submitted as part of a slot machine licensee's internal controls. It lists the departments that must be included, the functions they are responsible to perform and various reporting responsibilities. It also contains certain reporting requirements that must be met if the chief executive officer or one of the mandatory department head positions becomes vacant.

Section 465a.12 (relating to access badges and temporary access credentials) sets forth requirements for each slot machine licensee to establish an access badge form of identification for employees which indicates what areas of the licensed facility the wearer may enter. It also requires temporary access badges for nonemployees who may need access to restricted areas.

Section 465a.13 (relating to possession of deadly weapons within a licensed facility) sets forth prohibitions on and the requirements governing the possession of deadly weapons within a licensed facility.

Section 465a.14 (relating to security department minimum staffing) requires slot machine licensees to submit minimum staffing plans for the security department as part of its internal controls submission.

Section 465a.15 (relating to cashiers' cage) specifies requirement for the cashiers' cage including personnel and physical security requirements.

Section 465a.16 (relating to accounting controls for the cashiers' cage) establishes the accounting controls that must be used in the cashiers' cage.

Section 465a.17 (relating to bill validators and slot cash storage boxes) contains the technical standards for bill validators and security procedures related thereto.

Section 465a.18 (relating to transportation of slot cash storage boxes to and from bill validators; storage) requires the filing of the schedule for removing slot cash storage boxes with the Board and advanced notice of changes in the schedule. It also sets forth the security protocols that must be followed during the removal, transport and counting process.

Section 465a.19 (relating to acceptance of tips or gratuities from patrons) contains restrictions on the acceptance of tips or gratuities.

Section 465a.20 (relating to personal check cashing) establishes the conditions that must be met and the limitations on cashing personal checks and the procedures for verifying the signature and identity of a patron.

Section 465a.21 (relating to wire transfers) contains provisions governing the acceptance of wire transfers.

Prior to the acceptance of wire transfers, the slot machine licensee must have approved internal controls in place governing the acceptance, verification and accounting for the wire transfers.

Section 465a.22 (relating to cash equivalents) requires that prior to the acceptance of cash equivalents, the slot machine licensee must have approved internal controls in place governing the acceptance, verification and accounting for cash equivalents.

Section 465a.23 (relating to customer deposits) mandates that before a slot machine licensee may hold a patron's funds, the slot machine licensee must have approved internal controls in place governing the acceptance and withdrawal of the deposits.

Section 465a.24 (relating to count room characteristics) requires licensed facilities to have a count room, contains the design specifications a count room must meet and specifies the security procedures that must be employed.

Section 465a.25 (relating to counting and recording of slot cash storage boxes) requires the submission of the schedule to the Board of when the contents of slot cash storage boxes will be counted. It also contains equipment requirements, restrictions on count room personnel, requires the development of internal controls and requires reporting of discrepancies in the count.

Section 465a.26 (relating to jackpot payouts) requires the slot machine licensee to have approved internal controls in place for jackpot payouts and what must be included in the jackpot payout internal controls.

Section 465a.27 (relating to annuity jackpots) sets forth the conditions under which a slot machine licensee may offer a single cash payout instead of an annuity, the conditions regarding annuity jackpots and requires that approved internal controls for annuity jackpots be in place.

Section 465a.28 (relating to merchandise jackpots) establishes the conditions under which merchandise jackpots may be offered. These include Board approval of specific offers and that approved internal controls be in place.

Section 465a.29 (relating to automated teller machines) allows automated teller machines to be located anywhere in the licensed facility.

Section 465a.30 (relating to waiver of requirements) sets forth the procedures and conditions under which the Board will grant a waiver of one or more of the requirements of this chapter.

Section 465a.31 (relating to gaming day) specifies that the Board will determine the beginning and end of the gaming day for the purpose of determining gross terminal revenues. It also requires Board approval of a slot machine licensee's hours of operation prior to its opening and Board approval of changes in its hours of operation.

Section 465a.32 (relating to signature) establishes requirements for written or electronic signatures.

Section 466a.1 (relating to slot computer systems generally) requires all aspects of a slot machine licensee's slot computer system to be located within the licensed facility and specifies what is included in a slot computer system.

Section 466a.2 (relating to waiver of requirements) sets forth the conditions under which the Board may waive one or more of the requirements of this chapter.

Section 466b.1 (relating to slot computer systems) specifies authorized locations.

Section 467a.1 (relating to gaming floor plan) specifies what must be included in a floor plan of the gaming floor and requires that the Board approve the floor plan prior to the commencement of slot operations at the licensed facility. Changes in the gaming floor square footage or number, configuration or location of slot machines also require prior approval from the Board.

Section 467a.2 (relating to commencement of slot operations generally) requires a slot machine licensee to demonstrate that the licensed facility complies with all requirements and that its slot machines have been tested and approved by the Board before it commences operations. It also specifies that once the slot machine licensee has demonstrated compliance, the Board will authorize the date and time that the licensed facility may open, the maximum size of the gaming floor and the maximum number of slot machines that may be operated.

*Comment and Response Summary*

The proposed rulemaking was published at 36 Pa.B. 7267 (December 2, 2006).

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

IRRC requested that the Board provide additional information pertaining to the need for the regulation 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 contained in the appendix attached to IRRC's comments.

The Board reviewed the attached appendix 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 the phrases "other items the Board may request in writing" and "additional documentation requested by the Board" which appear in two sections. While the Board attempted to provide comprehensive guidance as to what information the Board needs, there will be times when the Board will need additional information from a slot machine licensee. However, the Board has added language to make it clear that the additional information requested must relate to the area 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 for the internal controls in § 465a.2 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 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 rapidly.

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 body of its regulations. The Board is also examining the possibility of 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, slot machine licensees would not be able to offer the newest games or take advantage of new systems or equipment as quickly as their 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 these regulations. However, the Board added references to specific existing technical standards 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 the standards that the Board is using.

In § 465a.2, IRRC raised three concerns. First, IRRC requested that the phrase "applicable laws and regulations" be replaced with specific cross references. Next, IRRC asked that more detail be added regarding the process for reviewing a licensee's internal controls. Finally, IRRC asked that additional details on how tolling would work be added to the regulation.

The phrase "applicable laws and regulations" is customarily used in financial attestations. Therefore, this phrase has not been amended or replaced.

Subsection (a) requires that a slot machine licensee's internal controls be submitted for Board review at least 90 days before gaming operations are to commence. The Board's approval of the internal controls is contingent upon the slot machine licensee's demonstration that their internal controls are sufficient to safeguard the integrity of the slot machine licensee's operations. To respond to IRRC's concern and to clarify this point, this language has been added to subsection (e). Also added is a provision stating that the Board will provide written notice of a deficiency to the slot machine licensee and allow the slot machine applicant or licensee to submit a revision to its submission. This is the Board's current practice. The Board has not established a deadline for completion of the Board's review because the Board will continue to work with a slot machine licensee until the slot machine licensee's internal controls are approved.

To address IRRC's final concern with this section, the Board added subsection (i) which explains how the slot machine licensee may respond to a tolling.

In § 465a.3(c), IRRC suggested that the term "Bureau" be clarified. Because the term "Bureau" is used throughout the Board's regulations, the term is defined in



§ 401.4 (relating to definitions) as the Bureau of Investigations and Enforcement. Therefore, no amendment was made in this section.

In § 465a.6(b)(1), IRRC suggested that “should” be replaced with “must” if this is a requirement. The Board agrees with this suggestion and has made this change.

In § 465a.7, IRRC had three questions regarding the \$10,000 limit in subsection (d): Does the \$10,000 limit apply to the person and the person’s guest collectively or to each person individually; what makes an individual a “guest” of a person; and is the “5-day period” 5 consecutive days?

The \$10,000 limit applies to the patron and the patron’s guests, not to each person and the 5-day period was intended to be 5 consecutive days. Subsections (d) and (e) have been amended to clarify both of these points.

The last sentence in subsection (d) specifies who is considered to be a guest. Therefore, no additional amendments were made.

In § 465a.9(a), IRRC asked that the procedures and criteria for the approval of surveillance systems be added.

The review of surveillance systems is conducted as part of the initial submission of the internal controls required under § 465a.2. However, this is not stated in the regulation. To clarify this point, a cross reference to § 465a.2 has been added. The criteria for review of surveillance systems are contained in the requirements for surveillance systems in subsections (c)—(g).

In § 465a.13, IRRC had a number of questions and concerns. In subsection (a), IRRC asked that the term “firearms and handguns” be defined and asked why the prohibition didn’t extend to other weapons. In subsection (a)(2), IRRC questioned the Board’s authority to require local, State and Federal law enforcement agents possessing firearms to notify the Board and the Pennsylvania State Police before entering the gaming floor or a restricted area.

IRRC also suggested moving subsection (b) to § 465a.14 or its own section.

Finally, in subsection (c), IRRC wanted to know: What the process would be for reviewing requests to possess a firearm or handgun in a licensed facility; what would constitute an “adequate course of training;” and under what circumstances would the Board grant a request?

In response to IRRC’s comments, § 465a.13 has been amended significantly.

The scope of the ban has been broadened to cover a deadly weapon as defined in 18 Pa.C.S. § 2301 (relating to definitions). This will still allow patrons to carry personal defense items such as mace or pepper spray, but provides the overall level of patron safety desired by the Board. The Board also eliminated the advanced notice requirement for law enforcement agents who enter a facility when acting in an official capacity

As suggested by IRRC, proposed subsection (b) has been moved to § 465a.14.

Subsection (c) has been amended to set forth the process for requesting Board permission to possess a deadly weapon on the premises of a licensed facility. The individual requesting permission must demonstrate the compelling need for the possession of the deadly weapon within the licensed facility and, if the request is for possession of a firearm, prove that the individual holds a valid license to possess the firearm. The proposed require-

ment regarding training has been deleted because the Board believes the requirement for licensure is sufficient.

In § 456a.20(b)(4) and (5), IRRC requested clarification of what would constitute “adequate documentation evidencing signature verification or check verification.” In subsection (b)(6), IRRC asked how the \$2,500 limit would adequately protect the welfare of patrons.

The intent in subsection (b)(4) was for the slot cashier to indicate whether the signature was verified under subsection (c) or by a government-issued identification. The language in this subsection has been amended to clarify this point.

The intent in subsection (b)(5) was for the slot cashier to indicate whether the check was verified directly or by the use of a check verification service. The language in this subsection has also been amended to clarify this point.

The \$2,500 daily limitation on cashing personal checks was established by the Board as a consumer protection. For a small percentage of individuals, gaming can become a problem. Limiting the ability of a patron to cash checks is intended to provide a mechanism to limit the losses a patron may incur.

In § 465a.21, IRRC asked why the \$2,500 limit imposed on check cashing doesn’t also apply to wire transfers.

Wire transfers are typically used by more experienced and sophisticated patrons. Placing a \$2,500 limit on wire transfers would significantly hamper their ability to game in this Commonwealth and put this Commonwealth at a significant competitive disadvantage in attracting these patrons.

In § 465a.30, IRRC questioned the Board’s authority to grant waivers of the requirements in this chapter. Additionally, IRRC stated that the regulation should specify who can request waivers and what the process for requesting a waiver would be.

The Board’s authority for this section can be found in the general rulemaking authority under 4 Pa.C.S. §§ 1202(b)(30) and 1322. Similar waiver provisions have been included in other chapters to provide some flexibility for licensees. While the Board’s regulations reflect current practice, because of the rapidly changing nature of gaming, there may be better ways to insure compliance and to protect the integrity of slot machine operations. Additionally, a waiver does not exempt a slot machine licensee from compliance; it simply allows the slot machine licensee to demonstrate compliance by some other means than what is specified in the regulation.

The Board agrees that the waiver process, as proposed, lacked clarity. Therefore, this section has been amended extensively to track other waiver sections in the Board’s regulations and to add the detail requested by IRRC.

In § 466a.1, IRRC raised the same concerns that it did for § 465a.30.

The Board’s authority for this section can be found in the general rulemaking authority under 2 Pa.C.S. § 1202(b)(30). For the reasons previously stated, the Board believes the waiver provisions are necessary to provide flexibility and to react to changes in gaming technology. However, the Board amended the waiver language, as it did with § 456a.30, and moved it to new § 466a.2. This new section tracks the other waiver sections in the Board’s regulations and adds the detail requested by IRRC.

IRRC suggested that the references to temporary regulations be deleted since these regulations expired on July 5, 2007.

The Board discussed this issue with the Legislative Reference Bureau (LRB) prior to the publication of the proposed 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 promulgated.

IRRC also suggested that the clarity of the regulation could be improved by adding definitions of seven terms that are used in the regulations.

The Board concurs with this suggestion and definitions were added to § 461a.1 (relating to definitions) for "bill validator," "cash equivalents," "drop team," "merchandise jackpot," "player rating," "player rating system" and "trolley."

Finally, IRRC suggested that the Board delete several terms used in the regulation which it believes are vague.

The Board reviewed the use of each of these terms in these chapters. In many instances, the Board agrees with IRRC's observation and deleted the terms and in some cases added additional clarifying language. However, in a few instances, the Board believes the use of these terms is appropriate within the context of the particular provision. In these limited instances, the terms have not been deleted or replaced.

#### *Additional Revisions*

In addition to the amendments made in response to IRRC's comments, the Board made further revisions.

Throughout the regulations, the term "slot accounting department" has been replaced with "finance department." This is the term more commonly used in the gaming industry.

In § 465a.2(g)(2), the authority to approve amendments to a slot machine licensee's internal controls has been shifted from the Board to the Executive Director. This will permit more rapid implementation of necessary changes.

Section 465a.2(i), (j) and (k) has been deleted. Rather than having two different processes for reviewing different types of amendments, changes to organization charts and the jobs compendium will be submitted and reviewed under subsections (f) and (g), like all other changes.

Section 465a.4(a) has been amended to list the monthly reports that must be filed by slot machine licensees. This will clarify what slot machine licensees are required to file. Additionally, subsection (e) has been added, which allows the Board to request additional financial reports.

Section 465a.11(a)(5) has been amended to clarify that each of the six major department heads listed in § 465a.11(b) must report directly to the facility's chief executive officer.

In § 465a.17(d), a technical requirement has been added to cover slot machines that don't have a full door covering the bill validator.

Section 465a.20(b)(5) has been amended to give facilities the option of verifying the validity of checks for \$500 or more directly with the bank themselves or by using a check verification and warranty service.

In § 465a.28, language has been added to specify that offers of merchandise jackpots, which must be approved by the Board, are to be submitted for approval using an Amendment Waiver and Request Form.

In § 467a.1(c), "configuration or location" of slot machines has been added to the list of changes to an approved floor plan that require prior written approval of the Board.

Finally, the numbering of the statements of policy in Chapters 465a and 466a (relating to technical standards—statement of policy) will be changed to Chapter 465b (§ 465b.1) and Chapter 466b (§ 466b.1).

#### *Affected Parties*

This final-form rulemaking imposes requirements on applicants for or holders of slot machine licenses. To date, the Board approved 11 applications for slot machine licenses.

#### *Fiscal Impact*

*Commonwealth.* This final-form rulemaking will impose costs on the Board to monitor the compliance of slot machine licensees with the requirements in the regulations.

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

*Private sector.* Applicants for and holders of slot machine licenses will experience some costs to comply with the accounting, auditing, personnel and reporting requirements.

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

#### *Paperwork Requirements*

Applicants for and holders of slot machine licenses will experience some costs to comply with the accounting, auditing, personnel and reporting requirements.

#### *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 October 25, 2006, the Board submitted a copy of the notice of proposed rulemaking, published at 36 Pa.B. 7267, 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 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 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 §§ 465.1—465.31, 466.1, 467.1 and 467.2, by adding final regulations in §§ 465a.1—465a.32, 466a.1, 466a.2, 467a.1 and 467a.2 and by amending the final regulation in § 461a.1 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(Editor's Note: The proposal to add § 465a.32 was not included in the proposed rulemaking published at 36 Pa.B. 7267.)

(b) The statements of policy in §§ 465a.1 and 466a.1 are renumbered as §§ 465b.1 and 466b.1.

(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. 3138 (July 7, 2007).)

Fiscal Note: 125-49. (1) State Gaming Fund; (2) Implementing Year 2006-07 is \$2,146,000; (3) 1st Succeeding Year 2007-08 is \$2,232,000; 2nd Succeeding Year 2008-09 is \$2,322,000; 3rd Succeeding Year 2009-10 is \$2,414,000; 4th Succeeding Year 2010-11 is \$2,511,000; 5th Succeeding Year 2011-12 is \$2,611,000; (4) 2005-06 Program—\$26,400,000; 2004-05 Program—\$13,200,000; 2003-04 Program—\$2,900,000; (7) Board Budget; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

CHAPTER 461a. SLOT MACHINE TESTING AND CONTROL

§ 461a.1. Definitions.

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

\* \* \* \* \*

Bill validator—An electronic device designed to interface with a slot machine for the purpose of accepting and validating any combination of United States currency, gaming vouchers, coupons or other instruments authorized by the Board for incrementing credits on a slot machine.

\* \* \* \* \*

Cash equivalents—Instruments with a value equal to United States currency or coin including certified checks, cashiers checks, travelers' checks, money orders, gaming vouchers or coupons.

\* \* \* \* \*

Drop team—The group of employees of a slot machine licensee who participate in the transportation of slot cash storage boxes and drop boxes.

\* \* \* \* \*

Merchandise jackpot—A slot machine jackpot in the form of:

- (i) Merchandise or a thing of value.
(ii) A cash payout and a payout of merchandise or a thing of value.
(iii) An option to choose between a cash payout and a payout of merchandise or a thing of value.

\* \* \* \* \*

Player rating—A score or ranking assigned to a player based on an evaluation of the amount and frequency of play by the person.

Player rating system—A computerized system by which a player is assigned a score or ranking based upon an evaluation of the amount and frequency of play by the person.

\* \* \* \* \*

Trolley—A wheeled apparatus used for the secured transport of slot cash storage boxes and drop boxes.

\* \* \* \* \*

CHAPTER 465. (Reserved)

§§ 465.1—465.31. (Reserved).

CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS

- Sec. 465a.1. Accounting records.
465a.2. Internal control systems and audit protocols.
465a.3. Forms, records and documents.
465a.4. Standard financial and statistical reports.
465a.5. Annual audit; other reports; suspicious activity and currency transaction reporting.
465a.6. Retention, storage and destruction of books, records and documents.
465a.7. Complimentary services or items.
465a.8. Licensed facility.
465a.9. Surveillance system; surveillance department control; surveillance department restrictions.
465a.10. Surveillance system recording formats.
465a.11. Slot machine licensee's organization.
465a.12. Access badges and temporary access credentials.
465a.13. Possession of deadly weapons within a licensed facility.
465a.14. Security department minimum staffing.
465a.15. Cashiers' cage.
465a.16. Accounting controls for the cashiers' cage.
465a.17. Bill validators and slot cash storage boxes.
465a.18. Transportation of slot cash storage boxes to and from bill validators; storage.
465a.19. Acceptance of tips or gratuities from patrons.
465a.20. Personal check cashing.
465a.21. Wire transfers.
465a.22. Cash equivalents.
465a.23. Customer deposits.
465a.24. Count room characteristics.
465a.25. Counting and recording of slot cash storage boxes.
465a.26. Jackpot payouts.
465a.27. Annuity jackpots.
465a.28. Merchandise jackpots.
465a.29. Automated teller machines.
465a.30. Waiver of requirements.
465a.31. Gaming day.
465a.32. Signature.

**§ 465a.1. Accounting records.**

(a) A slot machine licensee shall maintain complete, accurate and legible records of all transactions pertaining to the revenues and expenses of each licensed facility.

(b) General accounting records shall be maintained on a double entry system of accounting with transactions recorded on a basis consistent with generally accepted accounting principles in the United States. Detailed, supporting and subsidiary records sufficient to meet the requirements of subsection (c) shall also be maintained in accordance with the requirements of this chapter.

(c) The detailed, supporting and subsidiary records include:

(1) Records pertaining to revenue that is taxable or subject to taxation under the act.

(2) Records pertaining to the financial statements and all transactions impacting the financial statements of the slot machine licensee including contracts or agreements with licensed manufacturers, suppliers, junket enterprises, certified and registered vendors, contractors, consultants, management companies, attorneys and law firms, accountants and accounting firms, insurance companies, and financial institutions, including statements and reconciliations related thereto.

(3) Records which identify the handle, payout, actual win amounts and percentages, theoretical win amounts and percentages, and differences between theoretical and actual win amounts and percentages, for each slot machine on a week-to-date, month-to-date and year-to-date basis.

(4) Records documenting the costs of complimentary services and items as defined in § 401a.3 (relating to definitions).

(5) Records of loans and other amounts payable by the slot machine licensee.

(6) Records of investments, advances, loan and receivable balances due to the slot machine licensee.

(7) Records created in connection with the system of internal controls submitted to the Board under § 465a.2 (relating to internal control systems and audit protocols).

(8) Records of returned checks.

**§ 465a.2. Internal control systems and audit protocols.**

(a) An applicant for, or holder of, a slot machine license shall submit to the Board and the Department a written description of its initial system of administrative and accounting procedures, including its internal control systems and audit protocols (collectively referred to as its "internal controls") at least 90 days before gaming operations are to commence. A written system of internal controls must include:

(1) Records of direct and indirect ownership in the proposed slot machine license, its affiliates, intermediaries, subsidiaries or holding companies.

(2) Organization charts depicting segregation of functions and responsibilities.

(3) A description of the duties and responsibilities of each licensed or permitted position shown on the organization charts and their respective lines of authority.

(4) A detailed narrative description of the administrative and accounting procedures designed to satisfy the requirements of this subpart.

(5) A record retention policy in accordance with § 465a.6 (relating to retention, storage and destruction of books, records and documents).

(6) Procedures to ensure that assets are safeguarded, and counted in conformance with effective count procedures.

(7) Other items the Board may request in writing to be included in the internal controls.

(b) A submission must be accompanied by the following:

(1) An attestation by the chief executive officer or other competent person with a direct reporting relationship to the chief executive officer attesting that the officer believes, in good faith, that the submitted internal controls conform to the requirements of the act and this subpart.

(2) An attestation by the chief financial officer or other competent person with a direct reporting relationship to the chief financial officer attesting that the officer believes, in good faith, that the submitted internal controls are designed to provide reasonable assurance that the financial reporting conforms to generally accepted accounting principles in the United States and complies with applicable laws and regulations, including the act and this subpart.

(c) The initial submission must also be accompanied by a report from an independent registered public accounting firm, licensed to practice in this Commonwealth. The report should express an opinion as to the effectiveness of the design of the submitted system of internal controls over financial reporting and should further express an opinion as to whether the submitted system of internal controls materially deviates from the requirements of applicable laws and regulations, including the act and this subpart.

(d) A submission by a slot machine licensee or applicant must include, at a minimum, the following:

(1) Administrative controls which include the procedures and records that relate to the decision making processes leading to management's authorization of transactions.

(2) Accounting controls which have as their primary objectives the safeguarding of assets and revenues and the reliability of financial records. The accounting controls must be designed to provide reasonable assurance that:

(i) Transactions or financial events which occur in the operation of a slot machine are executed in accordance with management's general and specific authorization.

(ii) Transactions or financial events which occur in the operation of a slot machine are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles in the United States, the act and this subpart.

(iii) Transactions or financial events which occur in the operation of a slot machine are recorded in a manner which provides reliable records, accounts and reports, including the recording of cash and evidences of indebtedness, for use in the preparation of reports to the Board related to slot machines.

(iv) Transactions or financial events which occur in the operation of a slot machine are recorded to permit proper and timely reporting and calculation of gross terminal revenue, fees and taxes and to maintain accountability for assets.

(v) Access to assets is permitted only in accordance with management's general and specific authorization.

(vi) The recorded accountability for assets is compared with existing physical assets at reasonable intervals and appropriate action is taken with respect to any discrepancies.

(3) Procedures and controls for ensuring, in accordance with section 1323 of the act (relating to the central control computer system), that each slot machine directly provides and communicates all required activities and financial details to the central control computer system as set by the Board.

(4) Procedures and controls for ensuring that all functions, duties and responsibilities are segregated and performed in accordance with sound financial practices by qualified personnel.

(5) Procedures and controls for ensuring, through the use of surveillance and security departments, that the licensed facility is secure during normal operations and during any emergencies due to malfunctioning equipment, loss of power, natural disaster or any other cause.

(e) The Board, in consultation with the Department, will review each initial submission made under subsection (a) and determine whether it conforms to the requirements of the act and this subpart and provides adequate and effective controls to insure the integrity of the operation of slot machines at a licensed facility. If the Board determines that the submission is deficient in any area, the Board will provide a written notice of the deficiency to the slot machine applicant or licensee and allow the slot machine applicant or licensee to submit a revision to its submission. A slot machine licensee is prohibited from commencing gaming operations until its system of internal controls is approved by the Board.

(f) If a slot machine licensee intends to make a change or amendment to its system of internal controls, it shall submit to the Board and the Department a written description of a change or amendment in its system of internal controls and the two original signed certifications described in subsection (b). The slot machine licensee may implement the change or amendment on the 30th calendar day following the filing of a complete submission unless the slot machine licensee receives a notice under subsection (g) tolling the change or amendment.

(g) If during the 30-day review period in subsection (f), the Bureau of Corporate Compliance and Internal Controls (BCCIC) preliminarily determines that a procedure in a submission contains a substantial and material insufficiency likely to have a direct and materially adverse impact on the integrity of slot operations or the control of gross terminal revenue, that Bureau, by written notice to the slot machine licensee, will:

(1) Specify the nature of the insufficiency and, when possible, an acceptable alternative procedure.

(2) Direct that the 30 calendar day review period in subsection (f) be tolled and that any internal controls at issue not be implemented until approved by the Executive Director.

(h) Examples of submissions that may be determined to contain a substantial and material insufficiency likely to have a direct and materially adverse impact on the integrity of slot operations or the control of gross terminal revenue may include the following:

(1) Submissions that fail to provide an audit trail sufficient to permit the review of gaming operations or the reconstruction of gross terminal revenue transactions.

(2) Submissions that fail to provide for the segregation of incompatible functions so that no employee is in a position both to commit an error or to perpetrate a fraud and to conceal the error or fraud in the normal course of the employee's duties.

(3) Submissions that do not include forms or other materials referenced in the submission or required by the act or this part that are essential elements of the internal controls.

(4) Submissions that would implement operations or accounting procedures not authorized by the act or this part.

(5) Submissions that are dependent upon the use of equipment or related devices or software not approved by the Board, unless the submissions are required as part of an authorized test of the equipment or related device or software.

(i) When a change or amendment has been tolled under subsection (g), the slot machine licensee may submit a revised change or amendment within 30 days of receipt of the written notice from BCCIC. The slot machine licensee may implement the revised change or amendment on the 30th calendar day following the filing of the revision unless it receives written notice under subsection (g) tolling the change or amendment.

(j) A current version of the internal controls of a slot machine licensee shall be maintained in or made available in electronic form through secure computer access to the accounting and surveillance departments of the slot machine licensee and the Board's onsite facilities required under § 465a.8 (relating to licensed facility). The slot machine licensee shall also maintain a copy, either in paper or electronic form, of any superseded internal control procedures, along with the two certifications required to be submitted with respect thereto, for a minimum of 5 years. Each page of the internal controls must indicate the date on which it was approved by the Board.

**§ 465a.3. Forms, records and documents.**

(a) Information required by this part to be placed on any form, record or document and in stored data shall be recorded on the form, record or document and in stored data in ink or other permanent form.

(b) Whenever duplicate or triplicate copies are required of a form, record or document, the original, duplicate and triplicate copies must have the name of the recipient receiving the copy preprinted on the bottom of that copy so as to differentiate between the copies.

(c) Whenever under this part, forms or serial numbers are required to be accounted for and an exception is noted, the exceptions shall be reported in writing to the slot machine licensee's internal audit department and the Bureau within 2 days of identification of the exception or upon its confirmation, whichever occurs earlier.

(d) Unless otherwise specified in this part, all forms, records, documents and stored data required to be prepared, maintained and controlled by this chapter must have the name of the licensed facility and the title of the form, record, document and, for stored data, the date imprinted or preprinted thereon.

(e) Nothing in this chapter shall be construed as prohibiting a slot machine licensee from preparing more copies of any form, record or document than those prescribed by this chapter.

**§ 465a.4. Standard financial and statistical reports.**

(a) A slot machine licensee shall file the following monthly reports of financial and statistical data:

- (1) A balance sheet.
- (2) A statement of revenues and expenses.
- (3) A cash flow statement.
- (4) A net income statement.
- (5) Daily gross terminal revenues and taxes.
- (6) A comparison of gross terminal revenues to projected gross terminal revenues.

(b) The Board may prescribe standard reporting forms and corresponding filing instructions to be used by a slot machine licensee in filing the monthly reports referenced in subsection (a).

(c) In the event of a license termination, change in business entity, or material change in ownership, the Board may require the filing of financial and statistical reports as of the date of occurrence of the event. The slot machine licensee will be notified in writing by the Board.

(d) Adjustments resulting from the annual audit required in § 465a.5 (relating to annual audit; other reports; suspicious activity and currency transaction reporting) shall be recorded in the accounting records of the year to which the adjustment relates. If the adjustments were not reflected in any annual report and the Board concludes that the adjustments are significant, the Board may require the slot machine licensee to file a revised annual report. The revised filing shall be due within 30 calendar days after written notification to the slot machine licensee, unless the slot machine licensee submits a written request for an extension prior to the required filing date and the extension is granted by the Board.

(e) The Board may request, in writing, additional financial reports to determine compliance by the slot machine licensee with the act and the Board's regulations.

**§ 465a.5. Annual audit; other reports; suspicious activity and currency transaction reporting.**

(a) A slot machine licensee shall, at its own expense, cause its annual financial statements to be audited in accordance with generally accepted auditing standards (when applicable, the Standards of the Public Company Accounting Oversight Board (United States)) by an independent certified public accountant or, when appropriate, an independent registered public accounting firm, licensed to practice in this Commonwealth.

(b) The annual financial statements shall be prepared on a comparative basis for the current and prior fiscal year and present financial position and results of operations in conformity with generally accepted accounting principles in the United States.

(c) The financial statements required by this section must include a footnote reconciling and explaining any differences between the financial statements included in any annual report filed in conformity with § 465a.4 (relating to standard financial and statistical reports) and the audited financial statements. The footnote must, at a minimum, disclose the effect of adjustments on:

- (1) Revenue from the operation of slot machines.
- (2) Slot machine revenue net of expenses for complimentary services or items.
- (3) Total costs and expenses.
- (4) Income before extraordinary items.

- (5) Net income.

(d) Two copies of the audited financial statements, together with any management letter or report prepared thereon by the slot machine licensee's independent registered public accounting firm, shall be filed with the Board not later than 60 days after the end of the licensee's fiscal year.

(e) The slot machine licensee shall require the independent registered public accounting firm auditing its financial statements to render the following additional reports:

(1) A report on material weaknesses or significant deficiencies in the system of internal controls noted in the course of the examination of the financial statements.

(2) A report expressing the opinion of the independent certified public accountant or independent registered public accounting firm as to the adequacy of the slot machine licensee's system of internal controls over financial reporting based upon the description of the system of internal controls approved for the slot machine licensee under § 465a.2 (relating to internal control systems and audit protocols). When appropriate, the report should make specific recommendations regarding improvements in the system of internal controls.

(f) The slot machine licensee shall prepare a written response to the independent certified public accountant's or independent registered public accounting firm's reports required by subsection (e)(1) and (2). The response must indicate, in detail, corrective actions taken. The slot machine licensee shall submit a copy of the response to the Bureau of Corporate Compliance and Internal Controls (BCCIC) within 90 days of receipt of the reports.

(g) The slot machine licensee shall file with the BCCIC two copies of the reports required by subsection (e), and two copies of any other reports on internal controls, administrative controls, or other matters relative to the slot machine licensee's accounting or operating procedures rendered by the licensee's independent certified public accountant or independent registered public accounting firm within 120 days following the end of the licensee's fiscal year or upon receipt, whichever is earlier.

(h) If the slot machine license is publicly held, the slot machine licensee shall submit to the BCCIC three copies of any report, including forms S-1, 8-K, 10-Q, 10-K, proxy or information statements and registration statements, required to be filed by the slot machine licensee with the SEC or other domestic or foreign securities regulatory agency. The filing with the Board shall be made within 10 days of the time of filing with the applicable Commission or regulatory agency or the due date prescribed by the applicable Commission or regulatory agency, whichever occurs first.

(i) If an independent certified public accountant or independent registered public accounting firm who was previously engaged as the principal accountant to audit the slot machine licensee's financial statements resigns or is dismissed as the slot machine licensee's principal accountant, or another independent certified public accountant or independent registered public accounting firm is engaged as principal accountant, the slot machine licensee shall file a report with the BCCIC within 10 days following the end of the month in which the event occurs, setting forth the following:

- (1) The date of the resignation, dismissal or engagement.
- (2) Whether in connection with the audits of the 2 most recent years preceding a resignation, dismissal or engagement.

ment there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure or auditing scope or procedure, including a description of each disagreement. The disagreements to be reported include those resolved and those not resolved.

(3) Whether the principal accountant's report on the financial statements for either of the past 2 years contained an adverse opinion or disclaimer of opinion or was qualified. The nature of the adverse opinion, disclaimer of opinion or qualification shall be described.

(j) The slot machine licensee shall request the former accountant to furnish to the slot machine licensee a letter addressed to the Board stating whether he agrees with the statements made by the slot machine licensee in response to subsection (i)(2). The letter shall be filed with the Board as an exhibit to the report required by subsection (i)(2).

(k) The slot machine licensee shall file with the Board a copy of any Suspicious Activity Report-Casino (SARC) it is required to file under 31 CFR 103.21 (relating to reports by casinos of suspicious transactions). Each SARC shall be filed with the Board concurrently with the Federal filing.

(l) A slot machine licensee, director, officer, employee or agent who reports a suspicious activity under subsection (k) may not notify any person involved in the suspicious activity that the suspicious activity has been reported.

(m) The slot machine licensee shall file with the Board a copy of any Currency Transaction Report by Casino (CTRC) it is required to file under 31 CFR 103.22 (relating to reports of transactions in currency). Each CTRC shall be filed with the Board concurrently with the Federal filing.

(n) Prior to commencing gaming operations, a slot machine licensee shall file with the Board, in a manner to be prescribed by the Board, a copy of its compliance program required under 31 CFR 103.64 (relating to special rules for casinos). Thereafter, a slot machine licensee shall file with the Board any amendment or supplement to its compliance program on or before the effective date of the amendment or supplement.

**§ 465a.6. Retention, storage and destruction of books, records and documents.**

(a) For the purposes of this section, "books, records and documents" means any book, record or document pertaining to, prepared in or generated by the operation of the licensed facility including all forms, reports, accounting records, ledgers, subsidiary records, computer generated data, internal audit records, correspondence and personnel records required to be generated and maintained by this part. This definition applies without regard to the medium through which the record is generated or maintained, for example, paper, magnetic media or encoded disk.

(b) Original books, records and documents pertaining to the operation of a licensed facility shall be:

(1) Prepared and maintained in a complete, accurate and legible form. Electronic data must be stored in a format that ensures readability, regardless of whether the technology or software that created or maintained it has become obsolete.

(2) Retained on the site of the licensed facility or at another secure location approved under subsection (d).

(3) Kept immediately available for inspection by agents of the Board, the Department and the Pennsylvania State Police during all hours of operation.

(4) Organized and indexed in a manner to provide immediate accessibility to agents of the Board, the Department and the Pennsylvania State Police.

(5) Destroyed only after expiration of the minimum retention period specified in subsection (c), except that the Board may, upon the written request of a slot machine licensee and for good cause shown, permit the destruction at an earlier date.

(c) Original books, records and documents shall be retained by a slot machine licensee for a minimum of 5 years with the following exceptions:

(1) Documentation with regard to gaming vouchers reported to the Board as possibly counterfeit, altered or tampered with should be retained for a minimum of 2 years.

(2) Coupons entitling patrons to cash or slot machine credits, whether unused, voided or redeemed shall be retained for a minimum of 6 months.

(3) Voided gaming vouchers and gaming vouchers redeemed at a location other than a slot machine shall be retained for a minimum of 6 months.

(4) Gaming vouchers redeemed at a slot machine shall be retained for a minimum of 7 days.

(d) A slot machine licensee may request, in writing, that the Board approve a location outside the licensed facility to store original books, records and documents. The request must include the following:

(1) A detailed description of the proposed offsite facility, including security and fire safety systems.

(2) The procedures under which the Board, the Department and the Pennsylvania State Police will be able to gain access to the original books, records and documents retained at the offsite facility.

(e) A slot machine licensee may request, in writing, that the Board approve a microfilm, microfiche or other suitable media system for the copying and storage of original books, records and documents. The request must include representations regarding:

(1) The processing, preservation and maintenance methods which will be employed to insure that the books, records and documents are available in a format which makes them readily available for review and copying.

(2) The inspection and quality control methods which will be employed to insure that microfilm, microfiche or other media when displayed on a reader/viewer or reproduced on paper exhibits a high degree of legibility and readability.

(3) The availability of a reader/printer for use by the Board, the Department and the Pennsylvania State Police at the licensed facility or other location approved by the Board and the readiness with which the books, records or documents being stored on microfilm, microfiche or other media can be located, read and reproduced.

(4) The availability of a detailed index of all microfilmed, microfiched or other stored data maintained and arranged in a manner to permit the immediate location of any particular book, record or document.

(f) Nothing herein shall be construed as relieving a slot machine licensee from meeting any obligation to prepare

or maintain any book, record or document required by any other Federal, State or local governmental body, authority or agency.

**§ 465a.7. Complimentary services or items.**

(a) A slot machine licensee shall develop, maintain and apply adequate internal controls over the authorization and issuance of complimentary services or items as defined in § 401a.3 (relating to definitions). The slot machine licensee shall maintain a written record of the internal controls under this section and the specific employees to whom they apply. Slot machine licensees are not required to obtain Board approval of the internal controls under this section.

(b) The internal controls must include the following:

(1) The procedures by which the slot machine licensee delegates to its employees the authority to approve the issuance of complimentary services or items.

(2) The procedures by which the slot machine licensee establishes or modifies any conditions or limits, to delegated authority, including limits based on relationships between the authorizer and recipient.

(3) The provisions employed to insure the auditing of complimentary services or items.

(c) Complimentary services or items shall be recorded as follows:

(1) A complimentary service or item provided directly to a patron in the normal course of a slot machine licensee's business shall be recorded at an amount based upon the full retail price normally charged for the service or item by the licensee.

(2) A complimentary service or item not offered for sale to a patron in the normal course of a slot machine licensee's business but provided directly by the slot machine licensee shall be recorded at an amount based upon the actual cost to the slot machine licensee of providing the service or item.

(3) A complimentary service or item provided directly or indirectly to a patron on behalf of a slot machine licensee by a third party not affiliated with the slot machine licensee shall be recorded at an amount based upon the actual cost to the licensee of having the third party provide the service or item.

(4) A complimentary service or item provided directly or indirectly to a patron on behalf of a slot machine licensee by a third party who is affiliated with the licensee shall be recorded by the licensee in accordance with this section as if the affiliated third party were the licensee.

(d) If a slot machine licensee provides complimentary cash and noncash gifts recorded at a value of \$10,000 or more to a person and the person's guests within a consecutive 5-day period, the slot machine licensee shall record the reason why the gifts were provided and maintain the records available for inspection by the Board and the Pennsylvania State Police. When the reason complimentary cash and noncash gifts were provided involves the person's player rating, that rating must be based upon an evaluation of the amount and frequency of play by the person as recorded in the slot machine licensee's player rating system. For the purposes of this section, "guest" means any person who receives complimentary services or items as a result of his relationship with the person receiving the primary complimentary services or items.

(e) A slot machine licensee shall submit to the Board a report listing each person who, under subsection (d), received \$10,000 or more in complimentary cash and noncash gifts within a consecutive 5-day period ending during the preceding month. The report shall be filed by the last day of the month following the month in which the complimentary cash and noncash gifts were issued and include the total amount of complimentary cash or noncash gifts provided to each person broken down into categories for food and beverage, hotel accommodations, travel and other services.

**§ 465a.8. Licensed facility.**

(a) A licensed facility must be equipped with a surveillance system configured and approved in accordance with §§ 465a.9 and 465a.10 (relating to the surveillance system; surveillance department control; surveillance department restrictions; and surveillance system recording formats). Except as otherwise provided in subsection (d)(1), the surveillance system shall be under the exclusive control of the surveillance department.

(b) Restricted areas within the licensed facility shall be designated for the repair and storage of slot machines. Areas approved and utilized within the licensed facility for slot machine repair shall be covered by the approved surveillance system.

(c) Emergency exits from the gaming floor must be equipped with an audible alarm system that produces a loud, distinguishable warning sound, discernable in the vicinity of the exit, whenever the emergency door is opened. The alarm system shall be designed to require deactivation and reset by means of a key. The key is to be maintained by the security department.

(d) Slot machine licensees shall, in accordance with section 1207(13) of the act (relating to regulatory authority of board), provide for and maintain onsite facilities for use by the Board, the Department and the Pennsylvania State Police for the purpose of carrying out their respective responsibilities (collectively referred to as the "onsite facilities"). The onsite facilities must be located in the same building as, and be located proximate to, the gaming floor and include suitable office space, equipment, partitions and supplies to meet the continuing needs of the Board, the Department and the Pennsylvania State Police at the facility including the following:

(1) A surveillance system monitoring room, located within the onsite facilities, with full camera control capability for the reception of transmissions generated by each camera approved for use as part of the slot machine licensee's surveillance system. Full camera control capability includes the ability to override the camera control capability of the slot machine licensee's surveillance system.

(2) An area for the detention of individuals detained or taken into custody by the Pennsylvania State Police. The detention area must be located within the onsite facilities and consist of a bench or other apparatus which is permanently affixed to the wall to which the person in custody can be handcuffed with as little discomfort to that person as is possible under the circumstances.

(3) A fingerprinting and photographing facility for use by the Pennsylvania State Police located in conformance with and outfitted in compliance with specifications established by the Pennsylvania State Police.

(4) Adequate computer, telephone and copying capability to meet the Board's, the Department's and the Pennsylvania State Police's continuing data processing and related needs.



(5) Direct telephone connections between the onsite facilities and the slot machine licensee's surveillance monitoring room and its security department.

(6) Computer terminals facilitating read only access to any computerized slot monitoring system or casino management system, or both, used by the slot machine licensee in its gaming operations.

(e) Keys or alternative locking mechanisms securing access to the onsite facilities shall be under the exclusive custody and control of the Board, the Department or the Pennsylvania State Police respectively.

(f) Slot machine licensees shall provide additional accommodations within the licensed facility upon receipt of a written request from the Board, the Department or the Pennsylvania State Police to accommodate periodic audit, compliance or investigative reviews at the licensed facility.

(g) Slot machine licensees shall provide adequate parking spaces adjacent or proximate to the onsite facilities, clearly marked for the Board, the Department or Pennsylvania State Police use only.

(h) Slot machine licensees shall equip licensed facilities with communication systems necessary to insure communication between the licensed facility and the Board, the Department, the Pennsylvania State Police, any applicable local law enforcement agency or emergency first responders.

**§ 465a.9. Surveillance system; surveillance department control; surveillance department restrictions.**

(a) The surveillance system of a licensed facility shall be submitted to and approved by the Board under § 465a.2 (relating to internal control systems and audit protocols). The Bureau will review surveillance system specifications, inclusive of the camera configuration and changes or modifications to the system specifications, to determine whether the system provides the adequate and effective surveillance of activities inside and outside the licensed facility mandated by section 1207(11) of the act (relating to regulatory authority of board). A slot machine licensee may not commence gaming operations until its surveillance system is approved by the Board.

(b) A slot machine licensee shall at all times provide the Board and the Pennsylvania State Police, upon request, with access to its surveillance system and its transmissions. Each member of its surveillance department shall comply with any request made by the Board or the Pennsylvania State Police to:

(1) Use, as necessary, any surveillance monitoring room in the licensed facility.

(2) Display on the monitors in the monitoring room any event capable of being monitored by the surveillance system.

(3) Make a video and, if applicable, audio recording of, and take a still photograph of, any event capable of being monitored by the surveillance system.

(i) The slot machine licensee shall preserve and store each recording or photograph in accordance with the directions of the Board or the Pennsylvania State Police.

(ii) The Board and the Pennsylvania State Police shall have unfettered access to each recording or photograph and, at the request of the Board or Pennsylvania State Police, access to a recording or photograph may be denied to a particular employee or department of the slot machine licensee.

(c) The surveillance system required in this section must include the following:

(1) Light sensitive cameras with lenses of sufficient magnification to allow the operator to read information on a slot machine reel strip and credit meter and equipped with 360° pan, tilt and zoom capabilities, without camera stops, to clandestinely monitor in detail and from various vantage points, including the following:

(i) The gaming conducted at the slot machines in the licensed facility.

(ii) The operations conducted at and in the cashiers' cage and any satellite cage.

(iii) The operations conducted at automated bill breaker, gaming voucher redemption, coupon redemption and jackpot payout machines.

(iv) The count processes conducted in the count room.

(v) The movement of cash and slot cash storage boxes within the licensed facility.

(vi) The entrances and exits to the licensed facility, the gaming floor and the count room.

(2) Video recording equipment which, at a minimum, must:

(i) Permit the preservation and viewing of a clear copy of the transmission produced by any camera connected to the surveillance system.

(ii) Be capable of superimposing the time and date of the transmission on each recording made by the video recording equipment.

(iii) Enable the operator to identify and locate, through the use of a meter, counter or other device or method, a particular event which was recorded.

(3) Recording media which shall be replaced immediately upon the manifestation of significant degradation in the quality of the images or sound, if applicable, recorded thereon. If videotape is utilized, it may be used for no more than 1 year.

(4) Audio capability in the count room installed in a manner that conforms to 18 Pa.C.S. §§ 5701—5781 (relating to Wiretapping and Electronic Surveillance Control Act).

(5) One or more monitoring rooms in the licensed facility which shall be staffed by employees of the slot machine licensee's surveillance department who shall at all times monitor the activities enumerated in paragraph (1). Each monitoring room shall be equipped with or serviced by:

(i) A communication system capable of monitoring all of the licensed facility's security department activities.

(ii) Computer terminals which facilitate read only access to any computerized slot monitoring system or casino management system, or both, used by the slot machine licensee in its gaming operation.

(iii) Connections to all casino alarm systems. The systems must provide a visible, audible or combination signal. A robbery, fire or emergency alarm must be perceptually distinguishable from all nonemergency alarms.

(iv) An updated photo library, consisting of photographs that are no more than 4 years old, of all current employees of the slot machine licensee, which photo library shall be available to the Board and the State Police.

(v) Contain and have readily available current copies of the following:

(A) An operational blueprint of the gaming floor and all areas of the licensed facility subject to camera coverage.

(B) Operating procedures addressing the evacuation of the licensed facility in the event of fire or other emergency.

(C) A contingency plan addressing a planned shutdown of the surveillance system and the contingency plan required by subsection (g) addressing any equipment failure that affects the slot machine licensee's monitoring room together with an emergency contact listing with telephone numbers for persons required to be notified of those events.

(6) An emergency power system, tested at intervals not to exceed 6 months, which can be used to operate the surveillance system in the event of a power failure.

(7) A preventive maintenance program, implemented by technicians assigned to the surveillance department, which insures that the entire surveillance system is maintained in proper working order and that the covers over the cameras are cleaned in accordance with a routine maintenance schedule.

(d) Areas subject to camera coverage under this section must contain continuous lighting that is of sufficient quality to produce clear video recordings and still picture reproductions.

(e) A slot machine licensee's surveillance system must be required to continuously record, during the times and in the manner indicated in this subsection, transmissions from cameras used to observe the following locations, persons, activities or transactions:

(1) Each transaction conducted at a cashiering location, whether or not that cashiering location services patrons. Coverage of the transaction must include, but not be limited to, recording transmissions from cameras used to observe the face of each person transacting business at each cashiering location from the direction of the cashier.

(2) The main bank, vault, satellite cages and other areas specified in writing by the Board.

(3) The collection of slot cash storage boxes.

(4) The count procedures conducted in the count room.

(5) Any armored car collection or delivery.

(6) Automated bill breaker, gaming voucher redemption, coupon redemption and jackpot payout machines whenever the machines are opened for replenishment or other servicing.

(7) The entrances and exits to the licensed facility, the gaming floor, the cashiers' cage and the count room.

(f) Slot machine licensees shall maintain a surveillance log of all surveillance activities in the monitoring room. The log shall be maintained by monitoring room personnel in a book with bound numbered pages that cannot be readily removed or shall be maintained in an electronic format which has an audit function that prevents modification of information after the information has been entered into the system. The log shall be stored and retained in accordance with § 465a.6 (relating to retention, storage and destruction of books, records and documents). The following information shall be recorded in a surveillance log:

(1) The date and time each surveillance event commenced.

(2) The name and Board issued credential number of each person who initiates, performs or supervises the surveillance.

(3) When suspicious activity, suspected or alleged regulatory violations or suspected or alleged criminal activity is involved, the reason for the surveillance, including the name, if known, alias or description of each individual being monitored, and a brief description of the activity in which the person being monitoring is engaged. This entry should also include a notation of the reading on the meter, counter or device specified in subsection (c)(2)(iii) that identifies the point on the video recording at which the event was recorded.

(4) The time at which each video recording is commenced and terminated, if different than when surveillance commenced or terminated.

(5) Time each surveillance event terminated.

(6) A summary of the results of the surveillance.

(7) A complete description of the time, date and, if known, the cause of any equipment or camera malfunctions, and the time at which the security department was apprised of the malfunction in accordance with the casino licensee's internal controls submitted under § 465a.2(d)(5).

(g) In accordance with § 465a.2(d)(5), each slot machine licensee shall have a contingency plan, to be utilized whenever there is an equipment failure that affects the slot machine licensee's monitoring room or other aspect of its surveillance system or operations.

(h) The Bureau shall be notified within 30 minutes of any incident of equipment failure as noted in subsection (f) including the time and cause of the malfunction, if known, the time the slot machine licensee's security department was notified of the malfunction and the nature of communications with the security department relating to the malfunction.

(i) The Bureau shall be notified at least 48 hours in advance of the following:

(1) Relocation of an approved camera.

(2) Change in an approved camera's specifications.

(3) Change in lighting for areas required to be subject to camera coverage.

(4) Addition or change to the surveillance system.

(j) Except for subsection (e)(3), the surveillance recordings required under subsection (e) shall be retained for a minimum of 30 days. Other surveillance recordings shall be retained for 7 days. Surveillance recordings shall be made available for review upon request by the Board or the Pennsylvania State Police.

(k) Any recording determined by the Board or the Pennsylvania State Police as being of potential evidentiary value shall be stored in accordance with Board or Pennsylvania State Police directives or turned over to the Board or the Pennsylvania State Police upon request. At the request and expense of the slot machine licensee, a copy of any recording turned over to the Board or the Pennsylvania State Police may be made available to the slot machine licensee.

(l) A surveillance employee assigned to the monitoring room shall work from the employee's own monitoring station.

(m) In accordance with § 465a.2(a)(5), each slot machine licensee shall be required to submit, for Board approval, a minimum staffing submission with regard to its surveillance monitor rooms. The minimum staffing submission must consider the size and layout of the licensed facility as well as the number of slot machines and must at all times provide for surveillance of activities inside and outside the licensed facility. A slot machine licensee may not implement a change or amendment in its surveillance monitor room minimum staffing submission without prior Board approval of the change or amendment.

(n) A slot machine licensee's surveillance department employees shall be independent of all other departments.

(o) A present or former surveillance department employee may not accept employment as a key employee or gaming employee with the same slot machine licensee for whom he was previously employed as a surveillance department employee unless 1 year has passed since the former surveillance department employee worked in the surveillance department. The present or former surveillance department employee may file a written petition requesting the Board to waive this restriction and permit the employment of a present or former surveillance department employee in a particular position. The Board may grant or deny the waiver upon consideration of the following factors:

(1) Whether the former surveillance department employee will be employed in a department or area of operation that the surveillance department monitors.

(2) Whether the surveillance and security systems of the slot machine licensee will be jeopardized or compromised by the employment of the former surveillance department employee in the particular position.

(3) Whether the former surveillance department employee's knowledge of the procedures of the surveillance department would facilitate the commission by any person of irregularities or illegal acts or the concealment of any actions or errors.

(p) Entrances to the surveillance monitoring rooms may not be visible from the gaming floor. A person entering the surveillance monitoring room who is not an employee of the surveillance department assigned to the monitoring room on the particular shift corresponding to the time of entry shall sign a monitoring room entry log upon entering the monitoring room. The monitoring room entry log shall be:

(1) Maintained in the monitoring room by monitoring room personnel and retained in accordance with § 465a.6 (relating to retention, storage and destruction of books, records and documents).

(2) Maintained in a book with bound numbered pages that cannot be readily removed or shall be maintained in an electronic format which has an audit function that prevents modification of information after the information has been entered into the system.

(3) Signed by each person entering the monitoring room, with each entry containing the following:

- (i) The date and time of entering the monitoring room.
- (ii) The entering person's name and his department or affiliation.
- (iii) The reason for entering the monitoring room.
- (iv) The name of the person authorizing the person's entry into the monitoring room.

(v) The date and time of exiting the monitoring room.

(4) Made available for inspection by the Board and the Pennsylvania State Police.

**§ 465a.10. Surveillance system recording formats.**

(a) A slot machine licensee may utilize either an analog or digital video recording format provided the format selected incorporates current technology with regard to secure system access, video cameras, monitors, recorders, video printers, switches, selectors and other ancillary equipment and provides for surveillance of activities inside and outside the licensed facility.

(b) Digital video recording systems utilized by a slot machine licensee must be in compliance with the technical standards on digital video recording systems under § 465b.1 (relating to digital video recording formats).

**§ 465a.11. Slot machine licensee's organization.**

(a) Slot machine licensees' systems of internal controls must, in accordance with section 1322 of the act (relating to slot machine accounting controls and audits) and § 465a.2 (relating to internal control systems and audit protocols), include organization charts depicting segregation of functions and responsibilities and descriptions of the duties and responsibilities for each position shown on each organization chart. Slot machine licensees shall be permitted, except as otherwise provided in this section, to tailor organizational structures to meet the needs or policies of a particular management philosophy. A slot machine licensee's organization charts must provide for:

(1) A system of personnel and chain of command which permits management and supervisory personnel to be held accountable for actions or omissions within their areas of responsibility.

(2) The segregation of incompatible functions, duties and responsibilities so that no employee is in a position both to commit an error or to perpetrate a fraud and to conceal the error or fraud in the normal course of the employee's duties.

(3) The performance of all functions, duties and responsibilities in accordance with sound financial practices by qualified personnel.

(4) The areas of responsibility which are not so extensive as to be impractical for one person to monitor.

(5) A chief executive officer. For the purposes of this section, a "chief executive officer" means the person located at the licensed facility who is ultimately responsible for the daily conduct of the slot machine licensee's gaming business regardless of the form of business association of the slot machine licensee or applicant or the particular title which that person or any other person holds. Each supervisor of a department required by subsection (b) shall report directly to the chief executive officer of the slot machine licensee regarding administrative matters and daily operations. The slot machine licensee's organization charts must designate which positions, in the absence of the chief executive officer, shall be designated as having responsibility for the daily conduct of the slot machine licensee's gaming business.

(b) A slot machine licensee's system of internal controls must also include, at a minimum, the following departments and supervisory positions, each of which must be categorized as mandatory and must cooperate with, yet perform independently of, other mandatory departments and supervisory positions of the slot machine licensee. Notwithstanding the foregoing, a department or supervisor of a slot machine licensee that is not required or

authorized by this section may operate under or in conjunction with a mandatory department or supervisor provided the organizational structure is consistent with the standards contained within the act and subsection (a). Mandatory departments and supervisory positions are:

(1) A surveillance department supervised by a person located at the licensed facility who functions, for regulatory purposes, as the director of surveillance. The director of surveillance shall be subject to the reporting requirements specified in subsection (c) and shall be licensed as a key employee. The surveillance department shall be responsible for the following:

(i) The clandestine surveillance of the operation of, and gaming conducted at, slot machines.

(ii) The clandestine surveillance of the operation of automated bill breaker, gaming voucher, coupon redemption and jackpot payout machines.

(iii) The clandestine surveillance of the operation of the cashiers' cage and any satellite cage.

(iv) The audio and video recording of activities in the count room in conformance with 18 Pa.C.S. §§ 5701—5781 (relating to Wiretapping and Electronic Surveillance Control Act), and the video recording of movements of cash and slot cash storage boxes.

(v) The detection of cheating, theft, embezzlement and other illegal activities within the licensed facility.

(vi) The detection of the presence of any person who may or is required to be excluded or ejected from the licensed facility under section 1514 or 1515 of the act (relating to regulation requiring exclusion of certain persons; repeat offenders excludable from licensed gaming facility) and Chapters 511 and 513 (relating to persons required to be excluded; and underage gaming), or is self excluded from the gaming floor and gaming activities at all licensed facilities under section 1516 of the act (relating to list of persons self excluded from gaming activities) and Chapter 503 (relating to self exclusion).

(vii) The video recording of those locations, persons, activities or transactions required under § 465a.9(e) (relating to surveillance system; surveillance department control; surveillance department restrictions) and of any illegal and unusual activities monitored by the surveillance department.

(viii) The provision of immediate notice to supervisors designated in the internal controls, the Bureau and the Pennsylvania State Police upon detecting, and also upon commencing video recording of, a person who is engaging in or attempting to engage in, or who is suspected of cheating, theft, embezzlement, a violation of this part or other illegal activities, including a person who is required to be excluded or ejected from the licensed facility under section 1514 of the act, who may or is required to be excluded or ejected from the licensed facility under section 1514 or 1515 of the act and Chapters 511 or 513 or is self-excluded from the gaming floor and gaming activities at all licensed facilities under section 1516 of the act and Chapter 503.

(ix) The clandestine surveillance of any slot computer system or equipment designated for coverage by the Board in conjunction with the approval of a slot machine system, including a slot monitoring system, casino management system, wide area progressive system, gaming voucher system and any communication equipment with the central control computer.

(2) An internal audit department supervised by a person located at the licensed facility who functions, for

regulatory purposes, as the director of internal audit. The director of internal audit shall be subject to the reporting requirements specified in subsection (c) and shall be licensed as a key employee.

(3) An information technology department supervised by a person located at the licensed facility who functions, for regulatory purposes, as the information technology director. The information technology director shall be licensed as a key employee and be responsible for the quality, reliability and accuracy of all slot computer systems used by the slot machine licensee regardless of whether data, software or systems are located within or outside the licensed facility. The information technology director shall further be responsible for the security and physical integrity of, and the accountability and maintenance of, the following:

(i) Access codes and other security controls used to insure limited access to computer software and the system wide reliability of data.

(ii) Computer tapes, disks or other electronic storage media containing data relevant to the slot machine licensee's operations.

(iii) Computer hardware, communications equipment and software used in the conduct of the slot machine licensee's operations.

(iv) The computerized slot monitoring system utilized by the slot machine licensee. In specific, the information technology director shall ensure that:

(A) Slot machines located on the gaming floor are connected electronically to the slot machine licensee's computerized slot monitoring system and to the Commonwealth's central control computer in accordance with section 1323 (relating to central control computer system).

(B) The security features of the computerized slot monitoring system prohibit, at a minimum, the deletion, creation or modification of any data unless a permanent record is created that sets forth:

(I) The original information.

(II) Modifications to the original information.

(III) The identity of the employee making the modification.

(IV) The identity of each employee authorizing the modification, if applicable.

(C) Computerized jackpot payout systems utilized by the slot machine licensee are configured to require that any modification of \$100 or more to the original amount recorded on a computerized jackpot payout or system override is authorized by two finance department employees, one of whom is in a position of greater authority than the individual preparing the jackpot payout.

(D) Procedures and controls are in place that define and limit interaction between both the slot operations department and finance department and the computerized slot monitoring system including access to system menus, the establishment of slot machine profile parameters, and the ability of each department to access, delete, create or modify information contained in the slot monitoring system.

(4) A slot operations department supervised by a person located at the licensed facility who functions, for regulatory purposes, as the director of slot operations. The director of slot operations shall be licensed as a key employee and be responsible for the operation of, and conduct of gaming at, slot machines within the licensed facility.

(5) A security department supervised by a person located at the licensed facility who functions, for regulatory purposes, as the director of security. The security department must be licensed as a key employee and be responsible for the overall security of the licensed facility including the following:

- (i) The physical safety of natural persons.
- (ii) The physical safeguarding of assets.
- (iii) The protection of the property of both the patron and the slot machine licensee from illegal activity.
- (iv) In collaboration with the human resources department or its functional equivalent, the design, implementation and enforcement of a system for the issuance of access badges.
- (v) The design, implementation and enforcement of a system for the issuance of temporary access credentials.
- (vi) The recording of any unusual incidents within the licensed facility in which the security department is involved. Each incident shall be recorded by security department personnel in a book with bound numbered pages that cannot be readily removed or be maintained in an electronic format which has an audit function that prevents modification of information after the information has been entered into the system. The log shall be stored and retained in accordance with § 465a.6 (relating to retention, storage and destruction of books, records and documents). The following information shall be recorded:
  - (I) The assignment number of the incident.
  - (II) The date and time.
  - (III) The nature of the incident.
  - (IV) The persons involved in the incident.
  - (V) The security department employees assigned to cover the incident.
- (vii) The identification and removal of any person who is required to be excluded or ejected from the licensed facility under section 1514 of the act, who may be excluded or ejected from the licensed facility under section 1515 of the act or is self excluded from the gaming floor and gaming activities at all licensed facilities under section 1516 of the act.
- (viii) The performance of the duties and responsibilities required under the system of internal controls submitted and approved under § 465a.2.
- (ix) The provision of immediate notice to the Pennsylvania State Police upon detecting the presence in the licensed facility of a person possessing a deadly weapon in violation of § 465a.13 (relating to possession of deadly weapons within a licensed facility).
- (x) The provision of immediate notice to supervisors designated in the internal controls, the Bureau and the Pennsylvania State Police upon detecting any person who is engaging in or attempting to engage in, or who is suspected of cheating, theft, embezzlement, a violation of this part or other illegal activities, including any person who is required to be excluded or ejected from the licensed facility who may or is required to be excluded or ejected from the licensed facility under section 1514 or 1515 of the act and Chapters 511 or 513 or is self-excluded from the gaming floor and gaming activities at all licensed facilities under section 1516 of the act and Chapter 503.

(6) A finance department supervised by a person located at the licensed facility who functions, for regulatory

purposes, as the director of finance. The director of finance shall be licensed as a key employee and shall be responsible for all finance functions including the preparation and control of records and data, the control of stored data, the control of unused forms, the accounting for and comparison of operational data and forms, and the control and supervision of the cashiers' cage, satellite cages and the count room. In addition to the requirement that the director of finance be licensed as a key employee, the supervisor of the cashiers' cage shall, on all shifts, be licensed as a key employee.

(c) The supervisors of the surveillance and internal audit departments required by subsection (b) shall report directly to one of the following persons or entities regarding matters of policy, purpose, responsibility and authority, which persons or entities shall also control the hiring, termination and salary of each supervisor:

- (1) The independent audit committee of the slot machine licensee's board of directors.
- (2) The independent audit committee of the board of directors of any holding or intermediary company of the slot machine licensee which has authority to direct the operations of the slot machine licensee.
- (3) The senior surveillance or internal audit executives of any holding or intermediate company included in paragraph (2) if the most senior executive in the reporting line reports directly to the independent audit committee of the board of directors of the holding or intermediary company.

(4) For slot machine licensees or holding companies which are not corporate entities, the noncorporate equivalent of any of the persons or entities listed in paragraphs (1)–(3).

(d) The slot machine licensee's personnel shall be trained in all policies, procedures and internal controls relevant to each employee's individual function. Special instructional programs shall be developed by the slot machine licensee in addition to any on-the-job instruction sufficient to enable all members of the departments required by this section to be thoroughly conversant in, and knowledgeable of, the required manner of performance of all transactions relating to their functions.

(e) Notwithstanding other provisions to the contrary, a slot machine licensee may designate and assign more than one person to serve jointly as the supervisor of a department required by this section. Each person approved to serve as a joint supervisor of a mandatory department shall be located at the licensed facility and shall be individually and jointly accountable and responsible for the operations of that department.

(f) In the event of a vacancy in the chief executive officer position or any mandatory department supervisory position required by subsection (b), the following apply:

- (1) The slot machine licensee shall notify the Board within 5 days from the date of vacancy. The notice must be in writing and indicate the following information:
  - (i) The vacant position.
  - (ii) The date on which the position will become or became vacant.
  - (iii) The date on which it is anticipated that the vacancy will be filled on a permanent basis.

(2) The slot machine licensee shall designate a person to assume the duties and responsibilities of the vacant position within 30 days after the date of vacancy. The

person may assume the duties and responsibilities of the vacant position on a temporary basis, provided that:

(i) The person does not also function as the department supervisor for any other mandatory department required by this section.

(ii) The person's areas of responsibility will not be so extensive as to be impractical for one person to monitor.

(iii) The position shall be filled on a permanent basis within 120 days of the original date of vacancy.

(3) Within 5 days of filling a vacancy under paragraph (2), the slot machine licensee shall notify the Board thereof. The notice must be in writing and indicate the following:

(i) The position.

(ii) The name of the person designated.

(iii) The date that the vacancy was filled.

(iv) An indication of whether the position has been filled on a temporary or permanent basis.

(4) The notices required in this subsection shall be directed to the Bureau of Licensing.

**§ 465a.12. Access badges and temporary access credentials.**

(a) For the purposes of this section, an access badge is a form of identification issued by a slot machine licensee and worn by a slot machine licensee employee, for purposes of identifying the areas of the licensed facility where the employee may obtain access in the course of the performance of the employee's normal duties.

(b) Slot machine licensees shall establish procedures, in writing, for readily identifying each person permitted, during the normal course of performing his duties, to have access to one or more restricted areas within the licensed facility.

(1) The procedures must include the requirement that persons wear an access badge in a visible location.

(2) The procedures must also include a methodology for updating the access badge procedures to reflect changes and amendments in the slot machine licensee's table of organization and the positions approved with respect thereto.

(3) The procedures must further include provisions expressly addressing access by employees of licensed manufacturers, licensed manufacturer designees, licensed suppliers and registered and certified vendors.

(c) Slot machine licensees shall also establish procedures, in writing, for readily identifying each person permitted, under temporary or emergency circumstances, to have access to one or more restricted areas within the licensed facility.

(1) The procedures must include the requirement that those persons wear a temporary access badge in a visible location.

(2) The procedures must also include a methodology for updating the temporary access badge procedures to reflect changes and amendments in the slot machine licensee's table of organization and the positions approved with respect thereto.

(3) The procedures must further include provisions expressly addressing temporary or emergency access by licensed manufacturers, licensed suppliers and registered and certified vendors.

(d) The procedures required in subsection (b) are to be designed, implemented and enforced by the security department in collaboration with the human resources department or its functional equivalent. The procedures in subsection (c) are to be designed, implemented and enforced by the security department. Procedures addressing both access badges and temporary access badges shall be retained in the security department and be made immediately available to the Board and the Pennsylvania State Police upon request. The slot machine licensee shall cooperate with the Board in making amendments to its procedures to improve the effectiveness of its access badge and temporary access badge systems.

**§ 465a.13. Possession of deadly weapons within a licensed facility.**

(a) Individuals, including security department personnel, are prohibited from possessing any deadly weapon as defined in 18 Pa.C.S. § 2301 (relating to definitions) within a licensed facility without the express written approval of the Board.

(b) The prohibition in subsection (a) does not apply to:

(1) Pennsylvania State Police assigned to its Gaming Enforcement Office.

(2) An on-duty officer or agent of any local, State or Federal law enforcement agency when the officer or agent is acting in an official capacity.

(c) To obtain approval for the possession of a deadly weapon within a licensed facility, an individual shall be required to submit a written request to the Board which includes:

(1) An explanation of the compelling need for the possession of the weapon within the licensed facility.

(2) If the request is for possession of a firearm as defined in 18 Pa.C.S. § 6105 (relating to persons not to possess, use, manufacture, control, sell or transfer firearms), proof that the individual holds a valid license to possess the firearm.

(d) A slot machine licensee shall post in a conspicuous location at each entrance to the licensed facility signs that may be easily read stating the following:

The possession of a deadly weapon by any person within this licensed facility without the express written permission of the Pennsylvania Gaming Control Board is prohibited.

**§ 465a.14. Security department minimum staffing.**

(a) In accordance with § 465a.2(d)(5) (relating to internal control systems and audit protocols), slot machine licensees shall be required to submit a minimum staffing submission with regard to its security department. The minimum staffing submission must consider the size and layout of the licensed facility as well as the number and configuration of slot machines on the gaming floor and must at all times provide for security of the gaming floor and restricted areas servicing the gaming operation. A slot machine licensee may not implement a change or amendment in its security department minimum staffing submission without Board approval of the change or amendment.

(b) A slot machine licensee may not employ off-duty law enforcement officers to provide security related services on the gaming floor, in restricted areas within the licensed facility or in any manner in connection with the conduct of slot machine operations.

**§ 465a.15. Cashiers' cage.**

(a) A licensed facility shall have on, immediately adjacent or proximate to the gaming floor, a physical struc-

ture known as a cashiers' cage to house the cashiers and to serve as the central location in the licensed facility for:

(1) The custody of the cage inventory comprised of cash (currency or coin) and the forms, documents and records normally associated with the operation of a slot cage.

(2) The initial financial consolidation of all transactions relating to slot machine activity.

(3) Other functions normally associated with the operation of a cashiers' cage.

(b) The supervisor of the cashiers' cage shall, regardless of shift, be licensed as a key employee.

(c) The cashiers' cage must be designed and constructed to provide maximum security for the materials housed therein and the activities performed therein. Its design and construction must include:

(1) Manually triggered silent alarm systems located at the cashiers' window, vault and in ancillary office space adjacent or proximate thereto. The systems must be connected directly to the monitoring room of the surveillance department and to the security department.

(2) A double door entry and exit system that will not permit a person to pass through the second door until the first door is securely locked. In addition, the following apply:

(i) The first door leading from the gaming floor of the double door entry and exit system must be controlled by the security department, the surveillance department or, in the alternative, a Board-approved computerized access system designed and administered to provide a functionally equivalent level of security.

(ii) The second door of the double door entry and exit system must be controlled by the cashiers' cage.

(iii) The double door entry and exit system must have surveillance coverage which shall be monitored by the surveillance department.

(iv) An entrance to the cashiers' cage that is not a double door entry and exit system must be an alarmed emergency exit door only.

(3) Separate manual locks on each door of the double door entry and exit system, the keys to which must be different from each other.

(d) A licensed facility may also have one or more satellite cages separate and apart from the cashiers' cage, established to maximize security, efficient operations or patron convenience. A satellite cage may perform all of the functions of the cashiers' cage and must be equipped with an alarm system in compliance with subsection (c)(1). The functions which are conducted in a satellite cage shall be subject to the accounting controls applicable to a cashiers' cage set forth in this subpart.

(e) A slot machine licensee shall maintain, immediately available to the Board and the Pennsylvania State Police, a current list, with credential numbers, of all persons:

(1) Possessing the combination or keys to the locks securing the double door entry and exit system restricting access to the cashiers' cage and any satellite cage and the vault.

(2) Possessing the ability to activate or deactivate alarm systems for the cashiers' cage, any satellite cage and vault.

**§ 465a.16. Accounting controls for the cashiers' cage.**

(a) The assets for which slot cashiers are responsible shall be maintained on an imprest basis. At the end of

each shift, slot cashiers assigned to the outgoing shift shall record on a cashiers' count sheet the face value of each cage inventory item counted and the total of the opening and closing cage inventories and shall reconcile the total closing inventory with the total opening inventory. Each cashiers' count sheet shall be signed by the preparing cashier attesting to the accuracy of the information thereon.

(b) At the opening of every shift, in addition to the imprest funds normally maintained by slot cashiers, each slot machine licensee shall have in the cashiers' cage, a reserve cash bankroll sufficient to pay winning patrons.

(c) The cashiers' cage and any satellite cage shall be physically segregated by personnel and function as follows:

(1) Slot cashiers shall operate with individual imprest inventories of cash and their functions include the following:

(i) The receipt of cash and cash equivalents from patrons in exchange for cash under § 465a.22 (relating to cash equivalents).

(ii) The receipt of personal checks for gaming and nongaming purposes from patrons in exchange for cash, subject to any limitations on amount required by the Board under § 465a.20 (relating to personal check cashing).

(iii) The receipt of cash, cash equivalents, checks issued by the slot machine licensee, annuity jackpot checks, wire transfers and cashless funds transfers from patrons to establish a customer deposit under § 465a.23 (relating to customer deposits).

(iv) The receipt of customer deposit forms from patrons in exchange for cash under § 465a.23.

(v) The preparation of jackpot payout slips in accordance with this subpart and technical standards adopted by the Board under § 465a.26 (relating to jackpot payouts).

(vi) The receipt of gaming vouchers from patrons, or from authorized employees who received gaming vouchers as gratuities, in exchange for cash.

(vii) Issuance, receipt and reconciliation of imprest funds used by slot attendants, including an imprest change/pouch payout fund.

(viii) The issuance of cash to automated bill breaker, gaming voucher, coupon redemption and jackpot payout machines in exchange for proper documentation.

(2) Main bank cashier functions include the following:

(i) The receipt of cash, cash equivalents, gaming vouchers, jackpot payout slips and personal checks received for gaming and nongaming purposes from slot cashiers in exchange for cash.

(ii) The receipt of cash from the count rooms.

(iii) The receipt of personal checks accepted for gaming and nongaming purposes from slot cashiers for deposit.

(iv) The preparation of the overall cage reconciliation and accounting records.

(v) The preparation of the daily bank deposit for cash, cash equivalents and personal checks.

(vi) The issuance, receipt and reconciliation of imprest funds used by slot attendants.

(vii) The receipt from slot cashiers of documentation with signatures thereon, required to be prepared for the segregation of functions in the cashiers' cage.

(viii) The responsibility for the reserve cash bankroll.

(ix) The receipt of unsecured currency and unsecured gaming vouchers and preparation of reports thereon.

(d) At the end of the gaming day a copy of the cashiers' count sheets and related documentation shall be forwarded to the accounting department for agreement of opening and closing inventories, agreement of amounts thereon to other forms, records and documents required by this subpart and recording of transactions.

**§ 465a.17. Bill validators and slot cash storage boxes.**

(a) Slot machines must be equipped with a bill validator configured to accept any combination of currency, gaming vouchers, coupons and other instruments authorized by the Board for incrementing credits on a slot machine.

(b) Access to the bill validator must be controlled by at least one lock, the key to which shall be controlled by the slot operations department.

(c) The bill validator in a slot machine must contain a secure tamper resistant container known as a slot cash storage box. Currency, gaming vouchers, coupons and Board-approved instruments inserted into the bill validator shall be deposited into the slot cash storage box.

(d) The slot cash storage box must be secured to the bill validator by two separate locks, the keys to which shall be different from each other, one of which may be the lock to the belly door or main door of the slot machine and a second of which is the lock on the release mechanism on the slot cash storage box. If there is not a full door on the bill validator, the lock on the release mechanism on the slot cash storage box must detect and display whether it is locked or unlocked and communicate whether it is locked or unlocked to a slot monitoring system. The keys shall be maintained and controlled as follows:

(1) The key to the belly door or main door of the slot machine shall be maintained and controlled by the slot operations department.

(2) The key to the lock securing the release mechanism on the slot cash storage box shall be maintained and controlled by the security department. The security department shall establish a sign-out and sign-in procedure with regard to this key which includes documentation of this transfer.

(e) A slot cash storage box must:

(1) Have at least one lock securing the contents of the slot cash storage box, the key to which shall be maintained and controlled by the finance department.

(2) Have a slot opening through which currency, gaming vouchers and coupons can be inserted into the slot cash storage box.

(3) Have a mechanical arrangement or device that prohibits removal of currency, gaming vouchers and coupons from the slot opening whenever the slot cash storage box is removed from the bill validator.

(4) Be fully enclosed, except for openings that may be required for the operation of the bill validator or the slot cash storage box. However, the location and size of the openings may not affect the security of the slot cash storage box, its contents or the bill validator.

(5) Have an asset number that is permanently imprinted, affixed or impressed on the outside of the slot cash storage box which corresponds to the asset number of the slot machine to which the bill validator has been attached. In lieu of the asset number, a slot machine licensee may develop and maintain, with prior Board approval, a system for assigning a unique identification number to its slot cash storage boxes. The system must ensure that each slot cash storage box can readily be identified, either manually or by computer, when in use with, attached to, and removed from a particular bill validator. Each unique identification number must be permanently imprinted, affixed or impressed on the outside of each slot cash storage box that does not otherwise bear an asset number. The asset number or unique identification number must be conspicuous and clearly visible to persons involved in removing or replacing the slot cash storage box in the bill validator and through the slot machine licensee's surveillance system. Notwithstanding the foregoing, emergency slot cash storage boxes may be maintained without an asset number or a unique identification number, provided the word "emergency" is permanently imprinted, affixed or impressed thereon, and when put into use, are temporarily marked with the asset number of the slot machine to which the bill validator is attached.

(6) Be designed and installed in a manner that renders the slot machine inoperable in the event of the removal or absence of the slot cash storage box.

**§ 465a.18. Transportation of slot cash storage boxes to and from bill validators; storage.**

(a) Slot machine licensees shall file with the Board a schedule setting forth the specific times at which slot cash storage boxes will be brought to or removed from the bill validators along with specifications as to what areas of the gaming floor will be dropped on each pick-up day and the specific transportation route to be utilized from the gaming floor to the count room.

(b) Slot machine licensees shall maintain immediately available to the Board and the Pennsylvania State Police, a current list, with credential numbers, of all employees participating in the transportation of slot cash storage boxes. Any deviation from the schedule setting forth the specific times at which slot cash storage boxes will be brought to or removed from the bill validators, change in the areas to be dropped or the transportation route to the count room shall be noticed to the Board in advance.

(c) Slot cash storage boxes removed from bill validators shall be transported directly to, and secured in, the count room or a trolley storage area located immediately adjacent thereto, configured and secured by a minimum of three employees, at least one of which is a member of the security department and at least one of which is a member of the finance department.

(1) Upon its removal from a bill validator, a slot cash storage box shall be placed immediately in an enclosed trolley which is secured by two separately keyed locks. The keys shall be maintained and controlled as follows:

(i) The key to one lock shall be maintained and controlled by the finance department.

(ii) The key to the second lock shall be maintained and controlled by the security department. Access to the security department's key shall be controlled, at a minimum, by a sign-out and sign-in procedure. The security department key shall be returned to its secure location immediately upon the completion of the collection and transportation of the slot cash storage boxes.



(2) Prior to the movement of any trolley containing slot cash storage boxes from the gaming floor into the count room, the drop team supervisor shall verify that the number of slot cash storage boxes being transported from the gaming floor equals the number of slot cash storage boxes scheduled to be collected that day.

(3) A slot cash storage box being replaced by an emergency slot cash storage box shall be transported to, and secured in, the count room by a minimum of three employees, at least one of which is a member of the finance department and at least one of which is a member of the security department.

(d) Slot cash storage boxes not contained in a bill validator, including emergency slot cash storage boxes that are not actively in use, shall be stored in the count room or other secure area outside the count room approved by the Board, in an enclosed storage cabinet or trolley and secured in the cabinet or trolley by a separately keyed, double locking system. The keys shall be maintained and controlled as follows:

(1) The key to one lock shall be maintained and controlled by the finance department.

(2) The key to the second lock shall be maintained and controlled by a security department. Access to the security department's key shall be limited to a supervisor of that department.

(e) Notwithstanding subsection (c), the security department may, immediately prior to the commencement of the count process, issue its key to the storage cabinet or trolley to a count room supervisor for the purpose of allowing count room personnel to gain access to the slot cash storage boxes to be counted. A key transferred from the custody of the security department to the count room supervisor shall be returned immediately following the conclusion of the count of the slot cash storage boxes and the return of the empty emergency drop boxes and slot cash storage boxes to their respective storage cabinet or trolley by the count room supervisor. The security department shall establish a sign-out and sign-in procedure which includes documentation of this transfer.

**§ 465a.19. Acceptance of tips or gratuities from patrons.**

Notwithstanding the requirements of § 461a.8(n) (relating to gaming vouchers), a key employee or gaming employee who serves in a supervisory position is prohibited from soliciting or accepting, and no other gaming employee may solicit, a tip or gratuity from a patron of the slot machine licensee where he is employed. The slot machine licensee may not permit any practices prohibited by this section.

**§ 465a.20. Personal check cashing.**

(a) Personal checks accepted by a slot machine licensee under § 501.7 (relating to prohibition on check cashing) to enable a patron to take part in gaming must be:

(1) Drawn on a commercial bank, savings bank, saving and loan association or credit union and payable on demand.

(2) Drawn for a specific amount.

(3) Made payable to the slot machine licensee.

(4) Currently dated, but not postdated.

(b) Personal checks accepted under subsection (a) shall be presented by the patron directly to a slot cashier who shall:

(1) Restrictively endorse the check "for deposit only" to the bank account designated by the slot machine licensee.

(2) Initial the check.

(3) Date and time stamp the check.

(4) Verify that the signature of the patron on the personal check and the patron's physical appearance agree with information recorded in a patron signature file created and maintained by the slot machine licensee in accordance with subsection (c) or with the signature and photograph or physical description contained on a government-issued identification presented by the patron. The slot cashier shall document how the signature verification was performed in connection with the acceptance of each personal check.

(5) For personal checks equaling or exceeding \$500, verify the validity of the check directly with the commercial bank, savings bank, saving and loan association or credit union upon which it is drawn or obtain an authorization and guarantee of the check from a check verification and warranty service certified as a vendor by the Board. The slot cashier shall document how the check verification was performed in connection with the acceptance of each personal check.

(6) Immediately exchange the personal check for cash in an amount equal to the amount for which the check is drawn, not to exceed \$2,500 per patron per gaming day.

(c) To record a patron's signature in a patron signature file, a slot cashier shall require the person for whom the file is to be created to present for examination the following:

(1) If the identity of the patron is to be confirmed in accordance with subsection (d)(1), one identification.

(2) If the identity of the patron is to be confirmed in accordance with subsection (d)(2), two forms of identification, at least one of which must contain a photograph or general physical description of the patron.

(d) Before a slot machine licensee may use a signature recorded in a patron signature file to verify the identity of a patron or the validity of a signature on a document, the slot machine licensee shall confirm the identity of the patron by either:

(1) Comparing the signature on the identification presented by the patron under subsection (c)(1) with the signature obtained from the patron and verifying the address of the patron's residence with a credit bureau, commercial bank or, if neither of these sources has the person's address on file or will not provide the information, with an alternative source, which does not include any documentation presented by the patron at the cashiers' cage.

(2) Comparing the signature on each of two forms of the identification presented by the patron under subsection (c)(2) with the signature obtained from the patron and comparing the photograph or general physical description contained on at least one of the forms of identification with the patron's actual physical appearance.

(e) A patron signature file established and maintained by a slot machine licensee under subsection (c) must include, in addition to the patron's signature, the following:

(1) The patron's name.

(2) The address of the patron's residence.

(3) The types of identification examined under subsection (d) and an indication whether the identification contained a photograph or physical description of the patron.

(4) For the purposes of this section, a physical description of the patron which includes:

- (i) Date of birth.
- (ii) Approximate height.
- (iii) Approximate weight.
- (iv) Hair color.
- (v) Eye color.

(5) The date and time that the patron signature file was established.

(6) The procedure by which the identity of the patron was confirmed under subsection (d), including:

- (i) The source of confirmation, date and time if confirmed under subsection (d)(1).
- (ii) The date and time of confirmation if confirmed under subsection (d)(2).

(7) The signature of the slot cashier or cashiers' cage supervisor who examined the identification of the patron and established the patron signature file. The signature will evidence that:

- (i) The signature of the patron recorded in the patron signature file is consistent with the signature on each form of identification that was examined.
- (ii) The physical description recorded in the patron signature file is consistent with both the actual appearance of the patron and any photograph or physical description that may be contained on an identification that was examined.

(f) Prior to accepting personal checks, each slot machine licensee shall establish a comprehensive system of internal controls applicable to the acceptance of personal checks. The internal controls shall be submitted to and approved by the Board under § 465a.2 (relating to internal control systems and audit protocols). The internal controls submitted by the slot machine licensee must address procedures for complying with this section including the dollar limitation per gaming day contained in subsection (b)(6).

#### § 465a.21. Wire transfers.

(a) A wire transfer accepted by a slot machine licensee on behalf of a patron under § 501.7 (relating to prohibition on check cashing) to enable a patron to take part in gaming shall be recorded in the slot machine licensee's cashiers' cage accountability no later than the next gaming day.

(b) Prior to commencing acceptance of wire transfers for gaming purposes, a slot machine licensee shall establish a comprehensive system of internal controls addressing the acceptance, verification, accounting for and sending of wire transfers. The internal controls shall be submitted to and approved by the Board under § 465a.2 (relating to internal control systems and audit protocols).

(c) The internal control procedures developed and implemented by the slot machine licensee under subsection (b) must include:

- (1) A cashiers' cage log to record the following information with regard to wire transfers accepted:
  - (i) A sequential number assigned by the slot machine licensee to the wire transfer transaction.

- (ii) The date and time of notification.

- (iii) The name of the financial institution and account number to which the funds were transferred.

- (iv) The amount of funds transferred.

- (v) The name of the patron for whose benefit the funds were transferred.

- (vi) The name and address of the financial institution from which the funds were transferred and the account number from which the funds were debited.

- (vii) The method by which the slot machine licensee was notified of the receipt of the wire transfer and, if noticed by telephone, the name and title of the person providing notice.

- (viii) The signature of the cashiers' cage employee receiving and recording the information required by this subsection.

- (ix) A notation that the wire transfer has been reversed under subsection (d), when applicable.

(2) A requirement that a cashiers' cage supervisor other than the cashiers' cage employee who initially documented receipt of the wire transfer verify receipt of the wire transfer.

(3) A requirement that the cashiers' cage supervisor verifying receipt of the wire transfer document the verification process performed in the log required under paragraph (1) including:

- (i) The method by which the receipt of the wire transfer was verified and, if verified by telephone, the name and title of the person providing the verification.

- (ii) The date and time of verification.

- (iii) The signature of the cashiers' cage supervisor verifying receipt of the wire transfer.

(4) The procedures used to:

- (i) Establish, verify and document the identity of the patron.

- (ii) Make the wire transfer proceeds available to the patron at the cashiers' cage

- (iii) Adjust the cashiers' cage accountability.

(5) A cashiers' cage log to record the following information with regard to wire transfers sent on behalf of a patron:

- (i) The name of the patron.

- (ii) The date of the transaction.

- (iii) The amount of funds transferred.

- (iv) The source of funds transferred (cash, cash equivalent, jackpot payout).

- (v) The name and address of the financial institution to which the funds will be transferred and the account number to which the funds will be credited.

- (vi) The signature of the patron if the request to send a wire transfer is made in person at the cashiers' cage.

- (vii) Documentation supporting the receipt of a request by the slot machine licensee to send a wire transfer on behalf of a patron if the request was not made in person at the cashiers' cage.

- (viii) The signature of the cashiers' cage employee receiving and recording the information required by this subsection.

(ix) The signature of the cashiers' cage supervisor or accounting department supervisor authorizing the wire transfer.

(6) When sending a wire transfer on behalf of a patron, the procedures used to:

- (i) Verify and document the identity of the patron.
- (ii) Adjust the cashiers' cage accountability.

(d) A slot machine licensee, on the next gaming day, shall take all steps necessary to return to a patron by wire transfer an amount initially accepted by wire transfer if, at the expiration of 14 gaming days following the deposit into its operating account of a wire transfer which has no documented business purpose other than having been accepted to enable a patron to take part in gaming, both of the following circumstances exist:

(1) The wired funds remain in a slot machine licensee's operating account or cashiers' cage accountability.

(2) The patron has engaged in minimal or no slot play.

(e) The wire transfer returned under subsection (d) shall be sent to the financial institution from which the funds were debited. This reversal of the wire transfer shall be recorded in the wire transfer log maintained under subsection (c)(1).

**§ 465a.22. Cash equivalents.**

(a) Prior to accepting cash equivalents for gaming purposes as permitted under § 501.7 (relating to prohibition on check cashing), a slot machine licensee shall establish a comprehensive system of internal controls addressing the acceptance and verification of cash equivalents. The internal controls shall be submitted to and approved by the Board under § 465a.2 (relating to internal control systems and audit protocols).

(b) The internal control procedures developed and implemented by the slot machine licensee under subsection (a) must include:

(1) A requirement that cashiers' cage employees perform the specific verification procedures required by the issuer of each cash equivalent accepted. The slot machine licensee shall retain adequate documentation evidencing the verification of each cash equivalent.

(2) A requirement that cashiers' cage employees examine each cash equivalent for counterfeiting, forgery or alteration.

(3) When a slot machine licensee elects to incorporate into its verification procedures a level of reliance on previously accepted cash equivalents, the procedures must articulate the general parameters governing the reliance.

(4) Criteria for cashiers' cage supervisor involvement in the verification process.

(5) Procedures for verifying any patron signature on the cash equivalent. Signature verification must be accomplished in accordance with the signature verification procedures in § 465a.20 (relating to personal check cashing). The slot machine licensee shall retain adequate documentation evidencing how each signature was verified.

**§ 465a.23. Customer deposits.**

(a) At the request of a patron, a slot machine licensee may hold cash, funds accepted by means of wire transfer in accordance with § 465a.21 (relating to wire transfers) or cash equivalents accepted in accordance with § 465a.22 (relating to cash equivalents) for a patron's

subsequent use for gaming purposes. For the purposes of this section, after complying with this chapter for acceptance and verification, noncash items shall be considered converted to cash and deposited as cash for credit to the patron in a customer deposit account maintained in the cashiers' cage.

(b) Prior to agreeing to hold a patron's cash, funds accepted by means of wire transfer in accordance with § 465a.21 or cash equivalents accepted in accordance with § 465a.22 for a patron's subsequent use for gaming purposes, each slot machine licensee shall establish a comprehensive system of internal controls addressing the receipt and withdrawal of a customer deposit. The internal controls shall be submitted to and approved by the Board under § 465a.2 (relating to internal control systems and audit protocols).

(c) The internal control procedures developed and implemented by the slot machine licensee under subsection (b) must include:

(1) A requirement that customer deposits be accepted at the cashiers' cage.

(2) A requirement that customer deposits be withdrawn by the patron at the cashiers' cage or upon receipt by the slot machine licensee of a written request for withdrawal whose validity has been established.

(3) A requirement that the patron receive a receipt for any customer deposit accepted reflecting the total amount deposited, the date of the deposit and the signature of the cashiers' cage employee accepting the customer deposit.

(4) Procedures for verifying the identity of the patron at the time of withdrawal. Signature verification must be accomplished in accordance with the signature verification procedures under § 465a.20 (relating to personal check cashing). The slot machine licensee shall maintain adequate documentation evidencing the patron identification process and how the signature was verified.

**§ 465a.24. Count room characteristics.**

(a) A slot machine licensee shall have adjacent or proximate to the cashiers' cage a room, to be known as a count room, specifically designated, designed and used for counting the contents of slot cash storage boxes.

(b) The count room shall be designed and constructed to provide maximum security for the materials housed therein and for the activities conducted therein. Each slot machine licensee shall design and construct a count room with the following security measures:

(1) A metal door installed on each entrance and exit equipped with an alarm device which audibly signals the surveillance department monitoring room and the security department whenever a door to the count room is opened at times other than those times for which the slot machine licensee has provided prior notice under § 465a.25 (relating to counting and recording of slot cash storage boxes).

(2) Each entrance and exit door must be equipped with two separate locks, the keys to which must be different from each other and different from the lock securing the contents of each slot cash storage box. The keys shall be maintained and controlled as follows:

(i) The key to one of the locks shall be maintained and controlled by the security department.

(ii) The key to the other lock shall be maintained and controlled by finance.

(iii) Sign-out and sign-in procedures shall be established for both keys.

(c) The following must be located within the count room:

(1) A table constructed of clear glass or similar material for the emptying, counting and recording of the contents of slot cash storage boxes.

(2) Surveillance cameras capable of video monitoring of:

(i) The entire count process.

(ii) The interior of the count room, including any storage cabinets or trolleys used to store slot cash storage boxes and any Board-approved trolley storage area located adjacent to the count room.

**§ 465a.25. Counting and recording of slot cash storage boxes.**

(a) A slot machine licensee shall file with the Board a schedule setting forth the specific times during which the contents of slot cash storage boxes are to be counted and recorded. Any deviation from the schedule shall be noticed to the Board at least 48 hours in advance.

(b) Computerized equipment utilized to count and strap currency, gaming vouchers and coupons must:

(1) Automatically provide two separate counts of the funds at different stages of the count process and, if the separate counts are not in agreement, document the discrepancy.

(2) Be capable of determining the value of a gaming voucher or coupon by independently examining information printed on the gaming voucher or coupon. The information is used by the counting equipment to either calculate the value internally or obtain the value directly from the gaming voucher system or coupon system in a secure manner. If the gaming voucher system is utilized to obtain the value of a gaming voucher or coupon, the gaming voucher system must perform a calculation or integrity check to ensure that the value has not been altered in the system in any manner since the time of issuance.

(c) Persons accessing the count room when uncounted funds are present shall wear clothing without any pockets or other compartments with the exception of representatives of the Board, the Department, the Pennsylvania State Police, the security department and the internal audit department.

(d) Persons present in the count room may not:

(1) Carry a handbag or other container unless it is transparent.

(2) Remove their hands from or return them to a position on or above the count table or counting equipment unless the backs and palms of the hands are first held straight out and exposed to the view of other members of the count team and a surveillance camera.

(e) Immediately prior to the commencement of the count, a count room employee shall notify the surveillance department that the count is about to begin to facilitate the recording, under § 465a.9(e) (relating to surveillance system; surveillance department control; surveillance department restrictions), of the entire count process.

(f) Prior to commencing gaming operations, a slot machine licensee shall establish a comprehensive system of internal controls addressing the opening, counting and recording of the contents of slot cash storage boxes. The

internal controls shall be submitted to and approved by the Board under § 465a.2 (relating to internal control systems and audit protocols).

(g) The internal controls developed and implemented by the slot machine licensee under subsection (f) must include a description of all computer equipment used in the counting and recording process and other systems, if any, that communicate with that computer equipment for purposes related to the counting of gross terminal revenue.

(h) A gaming voucher or coupon deposited in a slot cash storage box shall be counted and included in the calculation of gross terminal revenue without regard to the validity of the gaming voucher or coupon.

(i) A coupon which has not already been canceled upon acceptance or during the count shall be canceled prior to the conclusion of the count.

(j) Any variance between the value of cash gaming vouchers and coupons in a slot cash storage box as determined in the count room and the value for that particular slot cash storage box recorded on corresponding reports generated by the gaming voucher system or coupon system shall be disclosed to the Board in a detailed written report citing each variance, the reason for the variance and the corrective action taken. This variance report shall be filed by the slot machine licensee with the Board within 72 hours of the count that is the subject of the comparison.

**§ 465a.26. Jackpot payouts.**

(a) Prior to commencing gaming operations, a slot machine licensee shall establish a comprehensive system of internal controls addressing jackpot payouts that are not paid directly from a slot machine. The internal controls shall be submitted to and approved by the Board under § 465a.2 (relating to internal control systems and audit protocols).

(b) The internal control procedures developed and implemented by the slot machine licensee under subsection (a) must include:

(1) A request for jackpot payout document or, in the alternative, an electronic entry into a slot computer system generating jackpot payouts, by a slot attendant or slot supervisor, evidencing the observation by the slot attendant or slot supervisor of the winning combination of characters on the slot machine and a determination of the amount of the jackpot payout based on the observed winning combinations.

(2) A requirement that the preparer of the request for jackpot payout document or, in the alternative, the employee performing the electronic entry into the slot computer system, be a slot supervisor if the hand paid jackpot is \$10,000 or more.

(3) A requirement that the following information be on the request for jackpot payout document or electronically entered into the slot computer system and maintained in stored data:

(i) The date and time of the jackpot.

(ii) The asset number of the slot machine on which the jackpot was registered.

(iii) The winning combination of characters constituting the jackpot or a code corresponding to the winning combination of characters constituting the jackpot.

(iv) The amount of the jackpot payout.

(v) The method of payment requested by the patron.

(vi) The signature or identification code of the preparer.

(vii) The following additional signatures or identification codes shall be required if the slot machine or the progressive meter is reset prior to the patron being paid or if payment is made directly to the patron by a slot cashier:

(A) The signature or identification code of a security department member or slot attendant other than the preparer attesting to the winning combination of characters constituting the jackpot and the amount of the jackpot payout.

(B) The signature or identification code of the slot shift manager attesting to the winning combination of characters constituting the jackpot and the amount of the jackpot payout when the jackpot amount is \$25,000 or more.

(4) A requirement that following preparation the request for jackpot payout document be immediately transported by the preparer, or the information made available by the slot computer system, to the cashiers' cage where it will serve to authorize the preparation of a jackpot payout document.

(5) A requirement that if the winning patron will not be paid before the slot machine or progressive meter is reset, the preparer of the request for jackpot payout document or the employee performing the electronic entry required by paragraph (1) shall also prepare a two-part receipt document containing the following information:

(i) The date and time of the jackpot.

(ii) The asset number of the slot machine on which the jackpot was registered.

(iii) The winning combination of characters constituting the jackpot or a code corresponding to the winning combination of characters constituting the jackpot.

(iv) The amount of the jackpot payout.

(v) The signature of the winning patron on the original form only.

(vi) The signature of the preparer attesting that the information on the receipt document is correct and agrees with the information on the request for jackpot payout document or in stored data.

(6) A requirement that the receipt document be distributed as follows:

(i) The original shall be immediately delivered to the slot cashier by the preparer, security department member or verifying slot attendant along with the request for jackpot payout document if manually generated in accordance with paragraph (1).

(ii) The duplicate shall be immediately presented to the winning patron who shall be required to present the duplicate receipt document before being paid the jackpot in accordance with the procedures set forth in this section.

(7) A requirement that the following information be on any jackpot payout document generated by the slot computer system:

(i) The asset number of the slot machine on which the jackpot was registered.

(ii) The winning combination of characters constituting the jackpot or a code corresponding to the winning combination of characters constituting the jackpot.

(iii) The date on which the jackpot occurred.

(iv) The amount that is to be paid from cashiers' cage funds. However, this amount may, in the slot machine licensee's discretion, be rounded up to the nearest whole dollar.

(v) The date, time and method of payment.

(vi) The signature or identification code of the preparer.

(8) A requirement that the data in paragraph (7)(i)—(vi) not be susceptible to change or removal by any personnel after preparation of a jackpot payout document.

(9) A requirement that whenever the winning patron is paid directly by the slot cashier the following procedures be followed:

(i) A jackpot payout document be generated by the slot computer system in accordance with paragraph (7).

(ii) If a one-part request for jackpot payout document is involved and a security department member or verifying slot attendant other than the preparer has not signed the one-part request for jackpot payout document, the slot cashier shall summon a security department member or slot attendant other than the preparer of the request for jackpot payout document and provide that employee with the request for jackpot payout document. The security department member or verifying slot attendant shall proceed to the slot machine identified on the request for jackpot payout document and sign the request for jackpot payout document attesting that the winning combination of characters on the slot machine and the amount to be paid match those which appear on the request for jackpot payout document. If the jackpot amount is \$25,000 or more, a slot shift manager shall also sign the request for jackpot payout document attesting that the winning combination of characters on the slot machine and the amount to be paid match those which appear on the request for jackpot payout document. The request for jackpot payout document shall be immediately returned to the slot cashier.

(iii) After the slot cashier determines that the required signatures verifying the winning combination of characters on the slot machine and the amount to be paid have been placed on the one-part request for jackpot payout document, if the amount being paid is less than \$10,000, the slot cashier shall pay the winning patron in the presence of the preparer of the request for jackpot payout document. If the amount being paid is \$10,000 or more but less than \$25,000, the slot cashier shall pay the winning patron in the presence of the slot attendant supervisor who prepared the request for jackpot payout document. If the amount being paid by the cashier is \$25,000 or more, the slot cashier shall pay the winning patron in the presence of the slot attendant supervisor and slot shift manager who prepared the request for jackpot payout document in accordance with this subsection. Personnel required by this subsection to witness the payment shall sign the duplicate jackpot payout document attesting to the accuracy of the information on the duplicate jackpot payout document and the disbursement of the payment to the patron.

(iv) If a receipt document under paragraph (5) was issued, the duplicate receipt document shall be signed by the patron in the presence of the slot cashier. The slot cashier shall compare the signature on the duplicate receipt document to that on the original receipt document and make the payment only if the signatures are in agreement.

(v) Once the required signatures are obtained and payment has been made, the slot cashier shall give the

duplicate jackpot payout document to a security department member or slot attendant who shall expeditiously deposit it into a locked accounting box.

(vi) The slot cashier shall attach the request for jackpot payout document, if applicable, the original and duplicate receipt document, if applicable, to the original copy of the jackpot payout document. All documents shall be forwarded by the end of the gaming day to the main bank for reimbursement.

(10) A requirement that whenever a winning patron is paid by a slot attendant or slot attendant supervisor, the following procedures shall be followed:

(i) A jackpot payout document be generated by the slot computer system in accordance with paragraph (7).

(ii) The slot cashier shall disburse the cash or slot licensee check to a slot attendant or slot attendant supervisor if the amount of the jackpot is less than \$10,000 and to a slot attendant supervisor if the amount of the jackpot is \$10,000 or more. The employee receiving the payment shall verify the amount received and sign the original and duplicate of the jackpot payout document attesting to the accuracy of the information on the jackpot payout document and the receipt of the payment from the slot cashier. The slot cashier shall retain the original jackpot payout document and the duplicate jackpot payout document shall be transported with the payment to the slot machine.

(iii) If a one-part request for jackpot payout document is involved and a security department member or verifying slot attendant other than the preparer has not signed the one-part request for jackpot payout document, the slot attendant or slot attendant supervisor shall provide the duplicate jackpot payout document to the security department member or verifying slot attendant other than the preparer at the slot machine who shall verify that the winning combination of characters on the slot machine and the amount to be paid match those which appear on the duplicate jackpot payout document. If the jackpot amount is \$25,000 or more, and the slot shift manager has not signed the request document, the slot shift manager shall similarly verify that the winning combination of characters on the slot machine and the amount to be paid match those which appear on the duplicate jackpot payout document.

(iv) When the verifications required by subparagraph (iii) have been completed, if the payment is less than \$10,000, the slot attendant or slot attendant supervisor shall pay the winning patron in the presence of the security department member or second slot attendant who verified the winning combination of characters on the slot machine and the amount to be paid. If the payment is \$10,000 or more, but less than \$25,000, the payment shall be made by a slot attendant supervisor in the presence of the security department member or verifying slot attendant who verified the winning combination of characters on the slot machine and the amount to be paid. If the payment is \$25,000 or more, the payment shall be made by a slot attendant supervisor in the presence of the security department member or verifying slot attendant and the slot shift manager who verified the winning combination of characters on the slot machine and the amount to be paid. Once the patron has been paid, the personnel required by subparagraph (iii) to witness the payment shall sign the duplicate jackpot payout document attesting that the winning combination of characters on the slot machine and the amount to be

paid match those which appear on the duplicate jackpot payout document and the disbursement of the payment to the winning patron.

(v) If a receipt document under paragraph (5) was issued, the slot cashier shall give the slot attendant or slot attendant supervisor the original receipt document along with the duplicate jackpot payout document to be transported with the payment. The patron shall be required to sign the duplicate receipt document in the presence of the slot attendant or slot attendant supervisor. The slot attendant or supervisor shall compare the signature on the duplicate receipt document to that on the original receipt document and shall make the payment only if the signatures are in agreement.

(vi) When payment has been made and the required signatures obtained, the security department member or slot attendant shall expeditiously deposit the duplicate jackpot payout document into a locked accounting box.

(vii) The slot attendant or slot attendant supervisor shall immediately return the original and duplicate receipt document, if applicable, to the cashiers' cage.

(viii) The slot cashier shall attach the request for jackpot payout document, if applicable, the original and duplicate receipt document, if applicable, to the original copy of the jackpot payout document. All documents shall be forwarded by the end of the gaming day to the main bank for reimbursement.

(11) A requirement that the slot machine licensee's accounting department perform, at the conclusion of each gaming day, income control audit procedures over the issuance of jackpot payouts including adequate comparisons to gaming voucher system data.

(12) Details with regard to processing of system overrides or adjustments.

(c) Nothing in this section precludes the use of a slot computer system, approved by the Board, that electronically records the information required on a request for jackpot payout document or facilitates through the slot computer system the verifications and comparisons as to winning combination of characters on the slot machine or amount to be paid required under this section.

(d) Nothing in this section precludes a slot machine licensee from implementing procedures by which a slot attendant, in the presence of a member of the security department, utilizes an imprest inventory of funds secured in a pouch or wallet to pay a jackpot of less than \$1,200 that is not totally and automatically paid directly from a slot machine.

(e) Prior to the payment of a jackpot payout under subsection (d), each slot machine licensee shall establish a comprehensive system of internal controls addressing this method of jackpot payout, the replenishment of the imprest pouch and the attendant reconciliation process. The internal controls shall be submitted to and approved by the Board under § 465a.2.

#### **§ 465a.27. Annuity jackpots.**

(a) A slot machine licensee offering an annuity jackpot payable over 10 years or more may offer a winning patron the option to be paid in a single cash payout, in lieu of the annuity jackpot, in an amount that is equal to the present value of the face amount of the jackpot payout as calculated in subsection (b).

(b) A slot machine licensee may offer a cash payment option. The present value of the cash payout option on an

annuity shall be determined by applying a discount rate to each of the future annuity jackpot payments, taking into consideration the number of years until each jackpot payment would otherwise have been received and adding to that amount the amount of the first cash payment that would otherwise have been received. For the purposes of this subsection, the discount rate must equal the United States Treasury constant maturity rate for 20 year United States government securities for the week ending prior to the date of the jackpot, as identified in the applicable H.15 Statistical Release issued by the Federal Reserve Board plus 0.5%.

(c) A slot machine licensee may not offer an annuity jackpot payout unless:

(1) The terms and conditions of the annuity jackpot, including the effect on the calculation of the theoretical payout percentage, comply with the act, this subpart and technical standards on jackpot payouts approved by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.

(2) The Board has approved the specific offer of the annuity jackpot.

(d) A cash payout made in connection with an annuity jackpot must be made in accordance with § 465a.26 (relating to jackpot payouts).

(e) Prior to the payment of an annuity jackpot, each slot machine licensee shall establish a comprehensive system of internal controls addressing the payment of an annuity jackpot. The internal controls shall be submitted to and approved by the Board under § 465a.2 (relating to internal control systems and audit protocols).

(1) The internal control procedures developed and implemented by the slot machine licensee must include:

(i) Procedures to be followed by a winning patron to exercise a cash payout option.

(ii) Procedures with regard to the administration of the trust agreement established to insure the future cash payments due under the annuity jackpot award.

(iii) A requirement that the trustee for the trust fund established by the trust agreement be a slot machine licensee or, for a wide area progressive system offering an annuity jackpot, the slot system operator for that wide area progressive system.

(2) A slot machine licensee may not offer an annuity jackpot until its supporting trust agreement and the internal controls required under this section have been approved in writing by the Board under § 465a.2.

#### **§ 465a.28. Merchandise jackpots.**

(a) A slot machine licensee may not offer a merchandise jackpot payout unless:

(1) The terms and conditions of the merchandise jackpot, including the effect on the calculation of the theoretical payout percentage, comply with the act, this subpart and technical standards on jackpot payouts approved by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website.

(2) The Board has approved the specific offer of the merchandise jackpot. To obtain Board approval, a slot machine licensee shall file an Amendment Waiver and Request Form containing all of the details related to the merchandise jackpot payout.

(b) A cash payout made in connection with a merchandise jackpot shall be made in accordance with § 465a.26 (relating to jackpot payouts).

(c) Prior to the payment of a merchandise jackpot, each slot machine licensee shall establish a comprehensive system of internal controls addressing the payment of a merchandise jackpot. The internal controls shall be submitted to and approved by the Board under § 465a.2 (relating to internal control systems and audit protocols).

#### **§ 465a.29. Automated teller machines.**

Automated teller machines may be placed at any location within the licensed facility.

#### **§ 465a.30. Waiver of requirements.**

(a) The Board may, on its own initiative, waive one or more of the requirements of this chapter or technical standards applicable to accounting and internal controls adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website upon a determination that the nonconforming control or procedure nonetheless 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 slot machine licensee 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 accounting and internal controls adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website. The request must be filed on a Amendment Waiver and Request Form and include supporting documentation demonstrating how the accounting and internal controls 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.

#### **§ 465a.31. Gaming day.**

(a) The beginning and ending times of the gaming day will be determined by the Board and will be uniform for all slot machine licensees for the purposes of determining gross terminal revenue.

(b) Prior to commencing gaming operations, each slot machine licensee shall submit to the Board, in writing, its hours of operation, which times must correspond to the portion of its gaming day it will be open to the public for the purpose of gaming activities. A slot machine licensee may not commence gaming operations until its hours of operation are approved by the Board.

(c) Any change in a slot machine licensee's hours of operation shall be noticed to the Board at least 72 hours in advance of the change in writing.

#### **§ 465a.32. Signature.**

An employee signature may be in either of the following formats:

(1) The employee's first initial, last name and Board license number, written by the employee, immediately adjacent to or above the clearly printed or preprinted title of the employee.

(2) The employee's unique identification number or other computer identification code issued to the employee by the slot machine licensee, if the document to be signed is authorized by the Board to be generated by a slot computer system and the method of signature is approved or required by the Board.

**CHAPTER 465b. TECHNICAL  
STANDARDS—STATEMENT OF POLICY**

Sec.

465b.1. Digital video recording formats.

**§ 465b.1. Digital video recording formats.**

(a) Any digital video recording system utilized by a slot machine licensee must:

(1) Be capable of recording, and thereafter being viewed, at a minimum of 30 frames or images per second, full screen, in real time.

(2) Have a visual resolution of 640 x 480 pixels or greater unless the Board expressly determines that an alternative visual resolution can achieve the clarity required to meet the purposes of this section.

(3) Be capable of retaining for at least 30 days all images obtained from all approved video cameras.

(4) Have a failure notification system that provides an audible, as well as a visual notification, of any failure in the surveillance system or the digital video recording media storage system.

(5) Have a media storage system that is configured so that a failure of any single component will not result in the loss of any data from the media storage system.

(6) Have no more than eight of the cameras utilized to satisfy the coverage requirements in § 465a.9(c)(1) (relating to surveillance system; surveillance department control; surveillance department restrictions), be in the first stage of concentration, unless the slot machine licensee has a fault tolerant or redundant system so there is no loss of data in the event of a failure of a single first stage concentrator.

(b) Remote access to a digital surveillance system from any location outside the surveillance monitoring room may not be permitted without the approval of the Board.

(c) Digital video disks or other storage media produced from the digital video recording system must contain the date and time of recording superimposed thereon, clearly identify the type of media player and software prerequisite to viewing the digital images and identify the video verification encryption code or watermark.

(d) Details with regard to the digital video recording system's video verification encryption code or watermark shall be provided to the Board, at no cost to the Board, prior to the inspection and approval of the system.

(e) The slot machine licensee's contingency plan required under § 465a.9(f) must expressly provide that any failure in a digital video recording media storage system must be repaired or replaced within 8 hours of the failure.

(f) The Board may waive one or more of the requirements or technical standards applicable to a surveillance system upon a determination that the nonconforming surveillance system nonetheless provides for adequate and effective surveillance of activities inside and outside the licensed facility.

**CHAPTER 466. (Reserved)**

**§ 466.1. (Reserved).**

**CHAPTER 466a. SLOT COMPUTER SYSTEMS**

Sec.

466a.1. Slot computer systems generally.

466a.2. Waiver of requirements.

**§ 466a.1. Slot computer systems generally.**

(a) All aspects of a slot machine licensee's slot computer system shall be located within the licensed facility in accordance with technical standards under § 466b.1 (relating to slot computer systems).

(b) For the purposes of this section, a slot computer system includes all aspects of a computer system which the act, this subpart or technical standards under § 466b.1 either require or permit to be utilized by a slot machine licensee in the conduct of, or monitoring of, slot machine operations including hardware, software and network interfaces used in connection with the operation of a slot monitoring system, casino management system, player tracking system, external bonusing system, cashless funds transfer system and gaming voucher system. A slot computer system will not be construed to include the following:

(1) A slot machine or bill validator.

(2) A wide area progressive slot system.

(3) Other computer systems or applications that the Board determines are not slot computer systems.

**§ 466a.2. Waiver of requirements.**

(a) The Board may, on its own initiative, waive one or more of the requirements of this chapter or the technical standards under § 466b.1 (relating to slot computer systems) upon a determination that the nonconforming system protocols nonetheless meet the integrity requirements of the act, this subpart and technical standards under § 466b.1.

(b) A slot machine licensee 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 under § 466b.1. The request must be filed on a Amendment Waiver and Request Form and include supporting documentation demonstrating how the nonconforming system protocols for which the waiver has been requested will still meet the operational integrity requirements of the act, this subpart and technical standards under § 466b.1.

**CHAPTER 466b. TECHNICAL  
STANDARDS—STATEMENT OF POLICY**

Sec.

466b.1. Slot computer systems.

**§ 466b.1. Slot computer systems.**

(a) *Definitions.* The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Computer access or logical access*—The ability of a person or process to obtain information from, or execute an action in, a slot computer system in accordance with privileges established by a slot machine licensee. The privileges shall be specified by an approved level of computer access.

*Firewall*—

(i) Dedicated computer hardware, software and the related security policy that protects a slot computer system, its software and data from access by other computer systems and users not specifically authorized to access the slot computer system, its software or data through procedures such as monitoring and analyzing all data packets on a real-time basis and automatically rejecting all unauthorized communications.



(ii) The term includes, without limitation, logging and reporting, automatic alarms and a user interface for controlling the firewall.

*Level of computer access—*

(i) The particular privileges granted to a person in a slot computer system by a slot machine licensee, such as read, modify and execute.

(ii) The privileges shall vary by slot computer system program, process, library or directory, according to the following:

(A) Position title and job code, for an employee of the slot machine licensee.

(B) Responsibilities and functions authorized to be performed, for any person not employed by the slot machine licensee.

*Slot computer system—*All aspects of a computer system which the act, this part or any technical standards adopted by the Board either require or permit to be utilized by a slot machine licensee in the conduct of, or monitoring of, slot machine operations including hardware, software and network interfaces used in connection with the operation of a slot monitoring system, casino management system, player tracking system, external bonusing system, cashless funds transfer system and gaming voucher system. A slot computer system may not be construed to include the following:

(i) A slot machine or bill validator.

(ii) A wide area progressive slot system.

(iii) A computer system that does not constitute a slot computer system and is connected to a slot computer system in accordance with subsection (f) and through a firewall which has the ability to:

(A) Maintain a list of each device, person or process authorized to obtain computer access to the slot computer system.

(B) Generate daily monitoring logs to inform the slot machine licensee of any unsuccessful attempts by a device, person or process to obtain computer access to the slot computer system.

(C) Authenticate the identity of each device, person and process from which communication is recorded before granting computer access to the slot computer system to the device, person or process.

(iv) Other computer systems or applications that the Board determines are not slot computer systems.

(b) *Authorized locations.*

(1) All aspects of a slot machine licensee's production slot computer system shall be located within the licensed facility. For the purposes of this section, a "production slot computer system" shall be defined as the slot machine licensee's primary slot computer system comprised of a collection of hardware and software used to process or monitor, in real time, slot machine activity. A production slot computer system includes any segregated testing component.

(2) With the written approval of the Board, a slot machine licensee's back-up slot computer system, or any portion thereof, may reside in a computer located in a secure location, referred to as a "remote computer," under the custody and control of an affiliate, intermediary, subsidiary or holding company licensed by the Board, referred to as a "host entity." For the purposes in this section, a back-up system may consist of either a mir-

rored back-up system which duplicates the production system by recording all slot related operations on a real time basis and is designed to become the production system whenever needed or a periodic back-up system which consists of regularly scheduled recording of selected data which may include a complete image of the production system or any portion thereof. At a minimum, a slot machine licensee requesting authorization to allow a back up slot computer system to reside outside the licensed facility shall establish that:

(i) Communications between the remote computer and the slot machine licensee's slot computer system occur using a dedicated and secure communication medium, such as a leased line.

(ii) The remote computer automatically performs the following functions:

(A) Generates daily monitoring logs and real time alert messages to inform the slot machine licensee and host entity of any system performance problems and hardware problems.

(B) Generates daily monitoring logs and real time alert messages to inform the slot machine licensee of any software errors.

(C) Generates daily monitoring logs to inform the slot machine licensee of any unsuccessful attempts by a device, person or process to obtain computer access.

(D) Authenticates the identity of every device, person and process from which communications are received before granting computer access to the device, person or process.

(E) Ensures that data sent through a transmission is completely and accurately received.

(F) Detects the presence of corrupt or lost data and, as necessary, rejects the transmission.

(3) Unless a remote computer is used exclusively to maintain the slot computer system of the slot machine licensee, it shall be partitioned in a manner approved by the Board and include the following:

(i) A partition manager that complies with the following requirements:

(A) The partition manager must be comprised of hardware or software, or both, and perform all partition management tasks for a remote computer, including creating the partitions and allocating system resources to each partition.

(B) The slot machine licensee and host entity shall jointly designate and each shall identify the security officer who shall be responsible for administering the partition manager and maintaining access codes to the partition manager. The security officer shall be an employee of the slot machine licensee or host entity and shall be licensed as a key employee in this Commonwealth.

(C) Special rights and privileges in the partition manager such as administrator shall be restricted to the information technology director and the security officer of the slot machine licensee or host entity who shall be licensed as key employees in this Commonwealth.

(D) Access to the partition manager shall be limited to employees of the information technology departments of the slot machine licensee and host entity.

(E) Software-based partition managers contained in a remote computer shall be functionally limited to performing partition management tasks for the remote computer,

while partition managers using hardware and software that are not part of a remote computer may be utilized to perform other functions for a remote computer that are approved by the Board.

(ii) A separate and distinct partition established for the slot machine licensee's slot computer system that complies with the following requirements:

(A) The partition shall be limited to maintaining the software and data of the slot machine licensee for which the partition has been established.

(B) The security officer of the slot machine licensee for which the partition has been established shall be licensed as a key employee in this Commonwealth and shall be responsible for maintenance of access codes to the partition.

(C) Special rights and privileges in the partition such as administrator shall be restricted to the security officer and the information technology director of the slot machine licensee for which the partition has been established.

(iii) Separate and distinct operating system software, application software and computer access controls for the partition manager and each separate partition.

(c) The Board may permit a slot machine licensee to establish a partition, within a computer that contains its slot computer system, for its affiliate, intermediary, subsidiary or holding company provided that:

(1) A partition manager comprised of hardware or software, or both, is utilized to perform all partition management tasks, including creating the partitions and allocating system resources to each partition.

(2) A security officer is designated within the information technology department of the slot machine licensee to be responsible for administering the partition manager and maintaining access codes to the partition manager. Special rights and privileges in the partition manager such as administrator shall be restricted to the security officer and the information technology director of the slot machine licensee.

(3) Special rights and privileges in any partition which has been established for the benefit of an affiliate, intermediary, subsidiary or holding company shall be restricted to the security officer and information technology director of the affiliate, intermediary, subsidiary or holding company.

(d) The Board may permit a slot machine licensee to maintain back-up or duplicate copies of the software and data of its slot computer system, or any portion thereof, in removable storage media devices, such as magnetic tapes or disks, in a secure location within a licensed facility or other secure location outside the licensed facility as approved by the Board for the purposes of disaster recovery.

(e) Notwithstanding the provisions of subsection (b), upon the declaration of a disaster affecting the slot computer system by the chief executive officer of the slot machine licensee and with the prior written approval of the Board, a slot machine licensee may maintain the software and data of its slot computer system, or any portion thereof, in a computer located in a secure location outside the licensed facility.

(f) A slot machine licensee may locate software or data not related to a slot computer system, such as food and beverage related software or data, in a computer located outside the licensed facility. With the written approval of

the Board, a slot machine licensee may connect the computer to a slot computer system, provided that:

(1) Logical access to computer software and data of the slot computer system is appropriately limited.

(2) Communications with all portions of the slot computer system occur using a dedicated and secure communications medium, such as a leased line.

(3) The slot machine licensee complies with other connection specific requirements required by the Board.

(g) The Board may waive one or more of the technical requirements applicable to slot computer systems adopted by the Board upon a determination that the nonconforming system protocols nonetheless meet the integrity requirements of the act, this part and technical standards adopted by the Board.

#### CHAPTER 467. (Reserved)

#### §§ 467.1 and 467.2. (Reserved).

#### CHAPTER 467a. COMMENCEMENT OF SLOT OPERATIONS

Sec.

467a.1. Gaming floor plan.

467a.2. Commencement of slot operations generally.

#### § 467a.1. Gaming floor plan.

(a) An applicant for, or holder of a slot machine license, shall submit to the Board a floor plan of its gaming floor and the restricted areas servicing the slot operation. A floor plan must be:

(1) Drawn to 1/8 inch scale, unless another scale is approved by the Board.

(2) Certified by an architect licensed to practice in this Commonwealth and depict the following:

(i) The gaming floor with notations as to:

(A) Proposed total square footage.

(B) The perimeter of the gaming floor.

(C) A clearly delineated route for underage persons to transverse the gaming floor.

(ii) Each slot machine area on the gaming floor and each slot machine location within each slot machine area. Slot machine locations shall be identified by number in accordance with § 463a.3 (relating to slot machine location).

(iii) The number of slot machines on the gaming floor in compliance with section 1210 of the act (relating to number of slot machines), in total and by slot area.

(iv) Each slot seat on the gaming floor in compliance with § 461a.7(t) (relating to slot machine minimum design standards).

(v) Each surveillance camera installed in compliance with § 465a.9(a) (relating to surveillance system; surveillance department control, surveillance department restrictions), noting its type and camera number.

(vi) The cashiers' cage and any satellite cashiers' cage, inclusive of each cashiers' cage window and window number, ancillary offices and areas.

(vii) Each count room and any trolley storage area.

(viii) Each automated bill breaker, gaming voucher redemption, coupon redemption and jackpot payout machine.

(ix) Each automated teller machine.

(x) Each area designated for the storage or repair of slot machines.

(xi) Vault and armored car bay locations.

(xii) Additional documentation requested by the Board relating to the floor plan for the gaming floor.

(b) A slot machine licensee may not commence slot operations until the floor plan depicting its gaming floor and all restricted areas servicing the slot operation has been approved in writing by the Board. The approval by the Board will expressly authorize the maximum square footage of gaming floor and maximum number of slot machines which may be operated by the slot machine licensee.

(c) A slot machine licensee may not change or revise the square footage of its gaming floor or the number, configuration or location of slot machines on the floor plan approved under subsection (b) without prior written approval of the Board.

**§ 467a.2. Commencement of slot operations generally.**

(a) Prior to the commencement of slot operations at a licensed facility a slot machine licensee shall demonstrate that:

(1) The licensed facility, including the gaming floor and restricted areas servicing the slot operation, complies in all respects 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.

(2) Slot machines and associated equipment installed in the licensed facility and utilized in the conduct of slot machine operations have been tested and approved by the Board in 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.

(3) The gaming floor plan required under § 467a.1(a) (relating to gaming floor plan) has been approved by the Board in 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.

(4) The slot machine licensee's proposed site plan and internal control systems and audit protocols have been approved by the Board in 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.

(5) The slot machine licensee is prepared to implement necessary management controls, surveillance and security precautions to insure the efficient conduct of slot operations.

(6) The slot machine licensee's employees are licensed or permitted by the Board and trained in the performance of their responsibilities.

(7) The slot machine licensee has complied with any conditions prerequisite to commencement of slot operations contained in the Statement of Conditions executed under § 423.6 (relating to license, permit, registration and certification issuance and statement of conditions).

(8) The licensed facility is prepared in all respects to receive the public.

(9) The slot machine licensee has successfully completed a test period.

(10) For Category 1 licensees, the slot machine licensee has a written live racing agreement as required under section 1303(d) of the act (relating to additional category 1 slot machine license requirements).

(b) Upon a slot machine licensee's successful demonstration of the criteria enumerated in subsection (a), the Board may authorize the date and time at which the slot machine licensee may commence slot operations at the licensed facility and will fix the maximum square footage of gaming floor and maximum number of slot machines which may be operated by the slot machine licensee pursuant to that authorization.

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