

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL QUALITY BOARD

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 109]

Safe Drinking Water—General Update

Corrective Amendment to 25 Pa. Code §§ 109.1, 109.301, 109.303, 109.304, 109.410, 109.503—109.505, 109.605, 109.701, 109.703, 109.704, 109.810, 109.1003, 109.1102, 109.1103, 109.1105 and 109.1107 in Subchapters A, C—H, J and K.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 109. SAFE DRINKING WATER

The Department of Environmental Protection has discovered a discrepancy between the agency text of 25 Pa. Code §§ 109.1, 109.301, 109.303, 109.304, 109.410, 109.503—109.505, 109.605, 109.701, 109.703, 109.704, 109.810, 109.1003, 109.1102, 109.1103, 109.1105 and 109.1107 as deposited with the Legislative Reference Bureau and published at 39 Pa.B. 2661 (May 23, 2009), and the official text published in the *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 417, August 2009). The amendments published at 39 Pa.B. 2661 were never codified.

Therefore, under 45 Pa.C.S. § 901: The Department of Environmental Protection has deposited with the Legislative Reference Bureau a corrective amendment to 25 Pa. Code §§ 109.1, 109.301, 109.303, 109.410, 109.503—109.505, 109.605, 109.701, 109.703, 109.704, 109.810, 109.1003, 109.1102, 109.1103, 109.1105 and 109.1107. The corrective amendment to 25 Pa. Code §§ 109.1, 109.301, 109.303, 109.304, 109.410, 109.503—109.505, 109.605, 109.701, 109.703, 109.704, 109.810, 109.1003, 109.1102, 109.1103, 109.1105 and 109.1107 is effective August 1, 2009, the date the defective official text was announced in the *Pennsylvania Bulletin*.

The correct version of 25 Pa. Code §§ 109.1, 109.301, 109.303, 109.304, 109.410, 109.503—109.505, 109.605, 109.701, 109.703, 109.704, 109.810, 109.1003, 109.1102, 109.1103, 109.1105 and 109.1107 is as it appeared at 39 Pa.B. 2661.

MARY LOU BARTON, Esq.,
Department of Environmental Protection

[Pa.B. Doc. No. 09-1602. Filed for public inspection August 28, 2009, 9:00 a.m.]

Title 58—RECREATION

GAME COMMISSION

[58 PA. CODE CH. 135]

Lands and Buildings

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) adopted the following rulemaking at its July 9, 2009, meeting:

Amend § 135.103 (relating to registration for controlled goose hunting areas) to permit persons who have previously hunted a controlled goose hunting area to apply for unclaimed blinds on the morning of the designated shooting day, but only when there exists an absence of applications for the unclaimed blinds from persons who have not previously hunted a controlled goose hunting area.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the final-form rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 39 Pa.B. 2951 (June 13, 2009).

1. Purpose and Authority

The Commission currently maintains two controlled goose hunting areas across this Commonwealth at its Pymatuning and Middle Creek Wildlife Management Areas. As a measure to promote full and equal opportunity for all Pennsylvania goose hunters, the Commission has traditionally limited hunters to hunt only 1 day per season on only one controlled goose hunting area as either a reservation holder or a guest of a reservation holder. Although a rare occasion, the lack of flexibility of this restriction had the unfortunate consequence of limiting the Commission's ability to fill unclaimed blinds when there was an absence of available first-time hunter applicants present on the morning of the designated shooting day. The Commission has determined that it can continue to promote full and equal opportunity for all goose hunters in this Commonwealth while also advancing the fullest utilization of its unclaimed blinds by amending this restriction. To this end, the Commission amended § 135.103 to permit persons who have previously hunted a controlled goose hunting area to apply for unclaimed blinds on the morning of the designated shooting day; but only when there exists an absence of applications for the unclaimed blinds from persons who have not previously hunted a controlled goose hunting area.

Section 721(a) of the code (relating to control of property) provides "The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the director, and the commission shall promulgate regulations . . . for its use and protection as necessary to properly manage these lands or waters." The amendments to § 135.103 were adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking amended § 135.103 by replacing the language prohibiting persons who have previously hunted a controlled goose hunting area applying for

an unclaimed blind with language permitting persons who have previously hunted a controlled goose hunting area to apply for unclaimed blinds on the morning of the designated shooting day; but only when there exists an absence of applications for the unclaimed blinds from persons who have not previously hunted a controlled goose hunting area.

3. *Persons Affected*

Persons wishing to apply for controlled goose hunting area blinds may be affected by the final-form rulemaking.

4. *Comment and Response Summary*

There were no official comments received regarding this final-form rulemaking.

5. *Cost and Paperwork Requirements*

The final-form rulemaking should not result in any additional cost or paperwork.

6. *Effective Date*

The final-form rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. *Contact Person*

For further information regarding the final-form rulemaking, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

8. *Findings*

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) The adoption of this amendment of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

9. *Order*

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 135, are amended by amending § 135.103 to read as set forth at 39 Pa.B. 2951.

(b) The Executive Director of the Commission shall certify this order and 39 Pa.B. 2951 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-287 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 09-1603. Filed for public inspection August 28, 2009, 9:00 a.m.]

GAME COMMISSION [58 PA. CODE CH. 135] Lands and Buildings

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) adopted the following rulemaking at its July 9, 2009, meeting:

Amend § 135.48 (relating to state game lands roads open to vehicular traffic for disabled persons) to remove the one-way travel limitation affecting the limited travel permitted on designated State Game Lands (SGLs) roads and replace it with an open travel allowance that is subject to further limitation based upon existing weather or road conditions as indicated by conspicuous signage or postings.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the final-form rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 39 Pa.B. 2812 (June 6, 2009).

1. *Purpose and Authority*

During the annual fall hunting seasons, the Commission enhances disabled hunter/trapper access to interior portions of its various SGL landholdings across this Commonwealth by opening certain designated roads normally closed to public travel to limited vehicular travel by persons issued a Use of a Vehicle as a Blind Disabled Persons Permit. Traditionally, travel on these designated roads has been strictly limited to one-way travel. In an effort to further expand this access, the Commission has determined that directional travel and related limitations should be determined on a location specific rather than on an across the board basis. Under this structure, some roads will remain limited to one-way travel while other roads may be expanded to two-way travel, all based upon location specific conditions. To this end, the Commission amended § 135.48 to remove the one-way travel limitation affecting the limited travel permitted on designated SGL roads and replace it with an open travel allowance that is subject to further limitation based upon existing weather or road conditions as indicated by conspicuous signage or postings.

Section 721(a) of the code (relating to control of property) provides "The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the director, and the commission shall promulgate regulations . . . for its use and protection as necessary to properly manage these lands or waters." Section 741(b) of the code (relating to commission actions for damage to buildings or property) provides "The commission shall promulgate regulations to protect users, improvements, lands and buildings under its control. These regulations shall cover, but need not be limited to . . . regulations required to properly protect and preserve these lands for their intended use." The amendments to § 135.48 were adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amended § 135.48 by replacing the language limiting travel on designated SGL roads to one-way travel only with an open travel allowance that is subject to further limitation based upon existing weather or road conditions as indicated by conspicuous signage or postings.

3. *Persons Affected*

Eligible persons wishing to travel on designated SGLs roads may be affected by the final-form rulemaking.

4. *Comment and Response Summary*

There were no official comments received regarding this final-form rulemaking.

5. *Cost and Paperwork Requirements*

The final-form rulemaking may result in some additional cost and paperwork associated with the production and deployment of any necessary signage or postings. However, the Commission has determined that if there is any additional expense associated with this effort, it will be minimal and will be absorbed by the current budget.

6. *Effective Date*

The final-form rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. *Contact Person*

For further information regarding the final-form rulemaking, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

8. *Findings*

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) The adoption of this amendment of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

9. *Order*

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 135, are amended by amending § 135.48 to read as set forth at 39 Pa.B. 2812.

(b) The Executive Director of the Commission shall certify this order and 39 Pa.B. 2812 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-286 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 09-1604. Filed for public inspection August 28, 2009, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 135]

Lands and Buildings

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) adopted the following rulemaking at its July 9, 2009, meeting:

Amend § 135.41 (relating to state game lands) to specifically prohibit the use or possession of drug paraphernalia on State Game Lands (SGLs).

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the final-form rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 39 Pa.B. 2811 (June 6, 2009).

1. *Purpose and Authority*

Illicit drug use and related drug crime has been a recurring problem that has plagued SGLs properties across this Commonwealth for decades. The Commission has and will continue to maintain a zero tolerance policy for illicit drug use and related drug crime on SGLs in its continuing efforts to maintain these lands for their primary purposes of providing and conserving habitat for this Commonwealth's wildlife resources as well as providing public access to open lands for recreational hunting and trapping activities. The Commission determined that although former regulatory provisions clearly prohibited the use and possession of controlled substances, they failed to clearly prohibit the use and possession of drug paraphernalia. The Commission also determined that the use and possession of drug paraphernalia on SGLs is just as deleterious as their related drug substances. In an effort to address this concern, the Commission amended § 135.41 to specifically prohibit the use or possession of drug paraphernalia on SGLs.

Section 721(a) of the code (relating to control of property) provides "The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the director, and the commission shall promulgate regulations . . . for its use and protection as necessary to properly manage these lands or waters." Section 741(b) of the code (relating to commission actions for damage to buildings or property) provides "The commission shall promulgate regulations to protect users, improvements, lands and buildings under its control. These regulations shall cover, but need not be limited to . . . regulations required to properly protect and preserve these lands for their intended use." The amendments to § 135.41 were adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amended § 135.41 to specifically prohibit the use or possession of drug paraphernalia on SGLs.

3. *Persons Affected*

Persons unlawfully using or possessing drug paraphernalia on SGLs will be affected by the final-form rulemaking.

4. *Comment and Response Summary*

There were no official comments received regarding this final-form rulemaking.

5. *Cost and Paperwork Requirements*

The final-form rulemaking should not result in any additional cost or paperwork.

6. *Effective Date*

The final-form rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. *Contact Person*

For further information regarding the final-form rulemaking, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

8. *Findings*

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) The adoption of this amendment of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

9. *Order*

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 135, are amended by amending § 135.41 to read as set forth at 39 Pa.B. 2811.

(b) The Executive Director of the Commission shall certify this order and 39 Pa.B. 2811 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-285 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 09-1605. Filed for public inspection August 28, 2009, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CHS. 141 AND 147]

Hunting and Trapping and Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) adopted the following rulemaking at its July 9, 2009, meeting:

Amend §§ 141.47 and 147.701 (relating to elk; and general), rescind § 141.49 (relating to elk guide permits) and add Chapter 147, Subchapter Y (relating to guiding permit) to relocate, consolidate and more clearly define the permitting process for persons interested in guiding other hunters or trappers for certain designated species.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the final-form rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 39 Pa.B. 2809 (June 6, 2009).

1. *Purpose and Authority*

Formerly, §§ 141.47, 141.49 and 147.701 separately provided for the permitting of persons guiding other hunters or trappers in their pursuit of elk and bobcats. The Commission amended §§ 141.47 and 147.701, rescinded § 141.49, and added Subchapter Y, §§ 147.901—147.905 to relocate, consolidate and more clearly define the permitting process for persons interested in guiding other hunters or trappers for certain designated species. Some notable changes will be increases in the associated permit fees as well as more stringent eligibility standards.

Section 2901(b) of the code (relating to authority to issue permits) provides “the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued.” The amendments to §§ 141.47, 141.49, 147.701 and addition of Chapter 147, Subchapter Y were adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amended §§ 141.47 and 147.701, rescinded § 141.49, and added Subchapter Y, §§ 147.901—147.905 to Chapter 147 to relocate, consolidate and more clearly define the permitting process for persons interested in guiding other hunters or trappers for certain designated species.

3. *Persons Affected*

Persons interested in guiding other hunters or trappers for certain designated species will be affected by the final-form rulemaking.

4. *Comment and Response Summary*

There were no official comments received regarding this final-form rulemaking.

5. *Cost and Paperwork Requirements*

The final-form rulemaking should not result in any additional cost or paperwork.

6. *Effective Date*

The final-form rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. *Contact Person*

For further information regarding the final-form rulemaking, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

8. *Findings*

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) The adoption of these amendments of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

9. Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 141 and 147, are amended by amending §§ 141.47 and 147.701 and deleting § 141.49 to read as set forth at 39 Pa.B. 2809; and by adding §§ 147.901—147.905 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall certify this order, 39 Pa.B. 2809 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-288 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter Y. GUIDING PERMIT

- Sec. 147.901. Purpose and scope.
- 147.902. Definitions.
- 147.903. Application.
- 147.904. Permit.
- 147.905. Violations.

§ 147.901. Purpose and scope.

The purpose of this subchapter is to provide for the issuance of guiding permits to authorize eligible applicants to serve as guides for persons hunting, trapping or otherwise taking certain designated species of wildlife.

§ 147.902. Definitions.

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

Guide—A person who assists another person in any manner to hunt, trap or otherwise take certain designated species of wildlife.

Guiding—

(i) The act of assisting or conspiring to assist another person in any manner to hunt, trap or otherwise take certain designated species of wildlife by locating, calling or directing another person to the quarry.

(ii) The term is not intended to include or authorize the assistance taking the form of any overt act directly connected with harvesting wildlife by discharging a firearm, bow or crossbow or setting or resetting a trap or cable restraints.

§ 147.903. Application.

(a) Applications for guiding permits issued under this subchapter shall be made through the applicants' local district wildlife conservation officers on the appropriate form provided by the Commission.

(b) Each application must include the name, address, telephone number and date of birth of the applicant, as well as the specific eligible species of wildlife sought to be covered by the permit.

(c) Applications for guiding permits will only be accepted from persons who possess a valid hunting license or qualify for license and fee exemptions under section 2706 of the act (relating to license and fee exemptions) and have no prior record of violations of the act or this title or related license revocations within the previous 10 years.

(d) The fee for a guiding permit will be \$25 for residents and \$50 for nonresidents for each respective eligible species of wildlife to be covered by the permit.

§ 147.904. Permit.

(a) *General rule.* A guiding permit issued under this subchapter is required for any person to engage in any guiding activities for the following designated species of wildlife: elk and bobcat.

(b) *Additional permits.* Possession of a guiding permit issued under this subchapter does not diminish an individual's obligation to obtain any other applicable Federal, State or local permits concerning the guiding activities.

(c) *Guiding on State game lands.* Notwithstanding the general prohibitions of § 135.41 (relating to state game lands), a guiding permit issued pursuant to this subchapter shall authorize its holder to engage in commercial guiding activities on State game lands for an eligible species of wildlife.

(d) *Orientation.* In any year the Commission establishes an orientation program for an eligible species of wildlife, the continuing validity of any guiding permit issued under this subchapter covering the eligible species, is premised upon the permit holder's completion of the orientation program prior to engaging in any guiding activities for the eligible species of wildlife.

§ 147.905. Violations.

The Director may deny, revoke or suspend any permit for any violation of this subchapter upon written notice to the permittee.

[Pa.B. Doc. No. 09-1606. Filed for public inspection August 28, 2009, 9:00 a.m.]

GAME COMMISSION
[58 PA. CODE CH. 147]
Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission) adopted the following rulemaking at its July 9, 2009, meeting:

Amend § 147.142 (relating to wildlife disposition) to expand the section's coverage to apply to wildlife disposition generally under a consumption permit.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the final-form rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 39 Pa.B. 2813 (June 6, 2009).

1. Purpose and Authority

The code and its attendant regulations limit the circumstances in which residents of this Commonwealth may possess and consume the edible portions of wildlife to the current eligibility criteria under § 147.142. There are no provisions for other circumstances, including, but not limited to, mistake kills, agricultural or property protection kills and illegal kills. Despite this absence of a specific permit classification, the Commission has found pragmatic approaches to informally authorize the possession and consumption of the edible portions of the applicable wildlife to make legitimate use of these valuable wildlife resources. The Commission determined that that was necessary to more formally and clearly define and implement a permitting process by which these distributions should occur. To this end, the Commission amended § 147.142 to expand the section's coverage to apply to wildlife disposition generally under a consumption permit.

Section 2901(b) of the code (relating to authority to issue permits) provides "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." The amendments to § 147.142 were adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking amended § 147.142 by expanding the section's coverage to apply to wildlife disposition generally under a consumption permit.

3. Persons Affected

Persons wishing to possess and consume the edible portions of wildlife killed by means other than lawful hunting or trapping will be affected by the final-form rulemaking.

4. Comment and Response Summary

There were no official comments received regarding this final-form rulemaking.

5. Cost and Paperwork Requirements

The final-form rulemaking should not result in any additional cost or paperwork.

6. Effective Date

The final-form rulemaking will be effective upon final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. Contact Person

For further information regarding the final-form rulemaking, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

8. Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) The adoption of this amendment of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

9. Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 147, are amended by amending § 147.142 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

CARL G. ROE,
Executive Director

Fiscal Note: Fiscal Note 48-289 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter H. PROTECTED SPECIMEN

§ 147.142. Wildlife disposition.

(a) *Consumption permit.* The Commission, in its sole discretion, may issue a consumption permit to a resident of this Commonwealth to authorize the possession and consumption of the edible portions of any wildlife carcass. A permit issued under this subsection will be valid for a period not to exceed 120 days from the date of issuance. The whole, or any part of any wildlife possessed under this subsection, may not be transferred to another person nor may any edible portion be removed from the possessor's place of residence for any purpose other than processing. Inedible portions of any wildlife possessed under this subsection shall be surrendered to the Commission or disposed of in a manner directed by the Commission.

(1) *General procedures.* Except as otherwise provided in paragraph (2), a person shall contact the Commission to obtain a paper consumption permit prior to taking possession of the carcass of any wildlife.

(2) *Special procedures for deer and turkey accidentally killed by a motor vehicle.* A person is authorized to take immediate possession of the carcass of a deer or turkey evidently killed accidentally by a motor vehicle and transport it to a place of safekeeping within this Commonwealth. A person taking possession of a deer or turkey carcass under this paragraph shall contact the Commission to obtain a permit number within 24 hours after having taken possession of the deer or turkey carcass. The issued permit number itself shall be considered a valid permit for the purposes of authorizing the continued possession of the edible portions of the deer or turkey carcass.

(b) *Furbearing species accidentally killed by a motor vehicle.* A person holding a valid Pennsylvania furtaker's license is authorized to take immediate possession of and utilize the edible and inedible portions of any furbearer, except river otters, bobcats and fishers, evidently killed accidentally by a motor vehicle. Any person taking possession of any furbearer under this subsection during the

closed season for the taking of the same shall contact the Commission to make notification of the possession within 24 hours.

(c) *Unlawful acts.* It is unlawful to:

(1) Possess the whole or any part of any wildlife without receiving any required permit, making any required notification or meeting any applicable eligibility standards within any applicable time restrictions.

(2) Fail to surrender the inedible portions of any wildlife possessed under the authorizations of subsection (a) to the Commission or to dispose of the same in the manner directed by the Commission.

(3) Violate any other provisions of this section.

(d) *Inapplicability.* This section does not limit the lawful possession of the whole or any part of any wildlife that is otherwise authorized by § 147.141 (relating to the sale of wildlife and wildlife parts).

[Pa.B. Doc. No. 09-1607. Filed for public inspection August 28, 2009, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD
[58 PA. CODE CHS. 403a, 435a, 441a,
461a AND 465a]
Revised Procedures

The Pennsylvania Gaming Control Board (Board), under the 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. §§ 1202(a)(1) and (b)(23), 1207(1), (3) and (5), 1209(a), 1305(d), 1322(a), (b)(2), (4) and (9) and (c)(3), (4), (5) and (8), 1326(b) and 1331(1), (3) and (4), amends Chapters 403a, 435a, 441a, 461a and 465a to read as set forth at 39 Pa.B. 418 (January 24, 2009) and in Annex A.

Purpose of the Final-Form Rulemaking

This final-form rulemaking contains a variety of amendments which correct errors in the existing regulations, clarify a number of requirements and revise or add new requirements that reflect current practices.

Explanation of Amendments to Chapters 403a, 435a, 441a, 461a and 465a

In § 403a.6 (relating to delegation of powers), “or order” has been added as one of the ways that the Board may make a delegation of its authority. While most Board delegations have been made by regulation or by resolution, in a few cases, the Board has used orders as well.

In § 435a.1 (relating to general provisions) “any felony offense” has been added to the list of arrests, charges, indictments or convictions that an individual who has a license, permit or registration has a continuing duty to report to the Board. Because felonies, by their very nature, are serious offenses, this information is essential for the Board to determine an individual’s continuing suitability.

In § 441a.5 (relating to license fee payment bond or letter of credit requirements) the incorrect citation to section 1209(c) of the act has been replaced with the correct citations to sections 1209(a) and 1305(d) of the act.

In § 461a.10 (relating to automated gaming voucher and coupon redemption machines) subsection (g)(1) has

been amended to allow either the slot operations or the security department to maintain the key to the lock securing the compartment, housing the storage box. This will give slot machine licensees some additional operational flexibility, while still preserving the departmental segregation of duties necessary to protect financial integrity. Additionally, subsection (g)(3) is being deleted. Because of the low risk for theft of coins, a lock on the compartment housing the coin storage containers is not necessary. Similarly, the second sentence in subsection (h), which requires all input/output ports to be secured, is being deleted. Since these ports are all located inside the locked housing, there is no need for additional security.

In § 461a.22 (relating to automated jackpot payout machines), new provisions have been added addressing key control and the physical security of automated jackpot payout machines. These provisions are similar to the requirements for automated gaming voucher and coupon redemption machines.

Section 461a.24 (relating to waivers) has been revised to clarify that written requests for waivers of any of the requirements in Chapter 461a (relating to slot machine testing and control) are to be submitted to the Board as a petition under § 493a.4 (relating to petitions generally) and that the waiver must be approved by the Board.

In § 465a.2 (relating to internal control systems and audit protocols), revisions have been made to subsections (f), (g) and (i) to further clarify the approval process for amendments to internal controls. Additionally, the requirement in subsection (f) that requests for changes or amendments also be submitted to the Department of Revenue (Revenue) has been deleted. Due to the large volume of changes and the fact that most changes have no impact on Revenue’s responsibilities, there is no need for Revenue to receive all changes. Instead, the Board will notify Revenue when a change is submitted that will impact their responsibilities.

In § 465a.5(h) (relating to annual audit; other reports; suspicious activity and currency transaction reporting), the word “license” has been replaced with “licensee.”

In § 465a.6 (relating to retention, storage and destruction of books, records and documents), subsections (b)(2) and (d)(1) and (2) have been revised to clarify that the location of books, records and documents that are required to be retained by a slot machine licensee must be secured and have a fire suppression system. This will apply if the records are stored in the licensed facility or in an approved alternate location. The reference to the Board as the entity that will review and approve requests to use an alternate location for records storage has also been replaced with the Office of Gaming Operations.

Section 465a.12 (relating to access badges) has been totally rewritten to eliminate the confusion between the access control and badge system that the slot machine licensees must establish and the emergency and temporary credentials that may be issued by the Board under §§ 435a.7—435a.9 (relating to emergency credentials; temporary credentials for principals and key employees; and temporary credentials for nongaming employees). In the proposed rulemaking, the slot machine licensee’s human resources department was to be responsible for determining the appropriate access level for each job description based upon the duties in each job description. The slot machine licensee’s director of security was to be responsible for maintaining the database with the access levels for all employees and monitoring compliance with the access levels. These proposed changes have been

revised further, as discussed in this preamble. The Board's representatives will have read-only access to this database. Employees of the slot machine licensee will be required to display their access badges at all times when they are working in the licensed facility. These requirements are consistent with or very similar, to the current practice in the operating licensed facilities.

In § 465a.16 (relating to accounting controls for the cashiers' cage) the word "cashiers'" has been replaced with "cashier's" in subsection (a). Additionally, the provision in subsection (c)(1)(viii), which addresses the functions of the cage cashiers, has been moved to subsection (c)(2), which covers main bank cashier functions, as a new subparagraph (x). This reflects the current industry practice when the issuance of cash to fill these machines is a function of the main bank, not the cage cashiers.

In § 465a.28 (relating to merchandise jackpots), revisions are being made to streamline the review process for merchandise jackpots. The requirement to submit a request using an Amendment Waiver and Request Form has been replaced with just a written request submitted to the Bureau of Gaming Operations. Approval of these requests will be made by the Executive Director instead of the Board. This will allow quicker action on these requests, which will in turn allow licensed facilities to more quickly respond to marketing trends. Additionally, the language in subsection (b) has been revised to provide greater clarity discribing what may be included as part of a merchandise jackpot.

In § 465a.29 (relating to automated teller machines), the phrase "or other color combination approved by the Bureau of Gaming Operations" is being added to subsection (b). This will make the language used in this subsection the same as the language used in §§ 461a.7 and 461a.22 (relating to slot machine minimum design standards; and automated jackpot payout machines).

As was done in § 461a.24, § 465a.30 (relating to waivers; and waiver of requirements) is being revised to clarify that written requests for waivers of any of the requirements in Chapter 465a (relating to accounting and internal controls) are to be submitted to the Board as a petition under § 493a.4 (relating to petitions generally) and that the waiver must be approved by the Board.

Comment and Response Summary

Notice of proposed rulemaking was published at 39 Pa.B. 418 (January 24, 2009).

The Board received comments from Greenwood Gaming and Entertainment, Inc. (Greenwood) and Mountainview Thoroughbred Racing Association (Mountainview) during the public comment period. On March 25, 2009, the Independent Regulatory Review Commission (IRRC) also filed comments on the proposed rulemaking. These comments were reviewed by the Board and are discussed in detail as follows.

In its comments, IRRC asked the Board to explain how the sections of the Pennsylvania Race Horse Development and Gaming Act (act) cited in the Regulatory Analysis Form relate to the Board's exercise of rulemaking authority.

The sections of the act cited in the preamble and Regulatory Analysis Form, reflect the statutory basis for the amendments to the Board's regulations. More specifically, §§ 1202(b)(23), 1207(1), 1209(a), 1305(a), 1326(b) and 1331(1), (3) and (4) pertain to the Board's licensing authority and requirements which are the subject of the amendments to §§ 435a.1 and 441a.5. The remaining

sections, §§ 1202(a)(1), 1207(3) and (5) and 1322(a), (b)(2), (4) and (9) and (c)(3), (4), (5) and (8) pertain to the amendments to the Board's regulations relating to internal controls in Chapters 461a and 465a.

Concerning the revisions to § 403a.6, IRRC asked that the Board clarify what circumstances would prompt the use of orders to delegate authority.

As the Board was beginning its operations, the Board used resolutions as the administrative mechanism to record actions taken by the Board at its public meetings. However, most Commonwealth agencies use orders instead of resolutions. The Board is adding orders to this section to bring its practices more in line with those of other Commonwealth agencies.

On § 465a.2, IRRC had three concerns. First, IRRC asked if the act provides the Executive Director (Director) with the authority to approve and disapprove amendments to internal controls. Second, IRRC asked why the requirement that an applicant provide a copy of amendments to its internal controls to the Revenue is being deleted. Finally, IRRC asked that the Board explain the difference between the Amendment and Waiver Request Form and the Internal Controls Amendment Request Form.

On IRRC's first concern, the act does not provide the Director with the authority to approve or disapprove changes to internal controls. The act gives the Board that authority under 4 Pa.C.S. §§ 1207 and 1322. However, the Board has delegated authority to the Director to approve or disapprove changes to a slot machine licensee's internal controls under § 403a.6. This has been done because changes to internal controls happen quite often due to changes in technologies, slot machine licensees' business practices, Board regulations and periodic audits. Requiring all internal control changes to go through a Board meeting would impose an administrative hardship on slot machine licensees and delay needed improvements to slot machine licensees' internal controls.

Regarding IRRC's second concern, the Board originally required that slot machine licensees submit a copy of all internal control changes to Revenue because Revenue wanted to receive them. However, most internal control changes have nothing to do with the central control computer system or the operation of slot machines, so Revenue has been flooded with internal control changes that did not want to receive. To resolve this problem, the Board has agreed to forward to Revenue any changes that affect its areas of interest. This will reduce the filing burden on the slot machine licensees, and save Revenue time it would have spent sorting through all of the changes that are submitted.

Concerning the difference between the Amendment and Waiver Request Form and the Internal Controls Amendment Request Form, the actual difference between the forms is minor. Originally, the Board attempted to use the same form for submission of both amendments to internal controls and applications for waivers under § 465a.30. Unfortunately, using the same form created confusion for some of the slot machine licensees and Board staff. To eliminate this confusion, this section of the regulation has been amended to reference the new, updated form for submission of internal control amendments, the Internal Controls Amendment Request Form. While the name of the form has changed, the information required by the new form is essentially the same.

Regarding § 465a.6, Greenwood suggested that the security and fire suppression system requirements not

apply to temporary facilities to avoid duplicative costs for these systems. If not addressed in the regulation, Greenwood indicated that it will seek a waiver under § 465a.30. IRRC voiced similar questions including: would the rulemaking require a fire suppression system in both temporary and permanent licensed facilities; did the Board consider the costs of having fire suppression systems in both facilities and would the Board consider granting a waiver of these requirements.

Because these records are essential to the audit process and protecting the financial integrity of gaming, they need to be kept a secured location that has fire suppression capabilities. For this reason, these requirements do apply to both temporary and permanent facilities. However, because the costs associated with fire suppression systems can be significant for a facility that will soon be transitioning to its permanent facility, such as Greenwood which is scheduled to move into its permanent facility in December, the Board believes that filing a waiver request under § 465a.30 would be more appropriate.

In § 465a.12, Greenwood, Mountainview and IRRC all suggested that subsection (b) be amended to allow someone other than the human resources department to be responsible for determining the access level of each job classification. Similarly, they all suggested that subsections (c) and (d) also be amended to allow someone other than the director of security to be responsible for the development and maintenance of the employee access level electronic database and any changes made to the database.

Additionally, Greenwood objected to the requirement in subsection (e) that the Board have read-only access to the access database because their current system doesn't have that capability. They requested that this provision not apply to temporary facilities or they will request a waiver for the temporary facility.

IRRC also asked why a department name was used in subsection (b) while individuals were listed in subsections (c) and (d); in subsection (c), what would be a "functional equivalent" to an electronic database system; and in subsection (e), had the Board considered the compliance cost of this requirement for Greenwood's temporary facility.

While the proposed amendment mirrors how many slot machine licensees have assigned these responsibilities, the Board agrees with all of the commentators that the slot machine licensees should have additional flexibility to decide who is responsible for these functions. Therefore, subsections (b), (c) and (d) have been revised to require the slot machine licensee to designate the individuals who will be responsible for these functions in their internal controls.

The Board disagrees with Greenwood's request that subsection (e), which requires that the Board be provided read-only access to the electronic database system, not apply to its temporary facility. If Greenwood believes that the cost is excessive, it has the option of filing a waiver request.

Regarding IRRC's other concerns, the revisions to subsection (b), (c) or (d) discussed previously resolve the first concern about the use of a department name instead of an individual position title. As to what constitutes a functional equivalent, this could include electronic logs that are not in a database format or paper tracking systems such as a log book. For the last concern, related to the cost of providing read-only access, the Board believes that the waiver process provides a mechanism for Greenwood to seek relief from this requirement.

Regarding § 465a.28, IRRC asked if the act provides the Director the authority to approve merchandise jackpots.

The act does not give the Director the authority to approve or disapprove merchandise jackpots. Instead, the Board has delegated this authority to the Director under § 403a.6. This was done because slot machine licensees frequently use merchandise jackpots as a marketing tool to increase player participation during slow periods. Requiring merchandise jackpots to go through a Board meeting would impose an administrative hardship on slot machine licensees by making it more difficult to quickly respond to market conditions.

On § 465a.30, Greenwood objected to the requirement that requests for waivers of the Board's regulations be filed as petitions under § 493a.4. It believed that it will increase the amount of time and costs to file these waivers. Instead, it suggested that the Board continue to use the process that is used for review of amendments to licensed facilities internal controls. IRRC also asked why the Board is eliminating the Amendment and Waiver Request Form and if it considered the potential cost implications. IRRC also asked if the Board had considered providing a list of examples of waivers it might approve.

As previously noted, attempting to use one form, the Amendment Waiver Request Form, for amendments to internal controls and for waiver requests, resulted in confusion between these two distinctly different processes. It was never the Board's intent to allow waivers of Board regulations to be approved using the same process that is used to review internal control amendments. Requiring waiver requests to be submitted as petitions will eliminate any further confusion.

The Board also believes that requiring waiver requests be filed as petitions, will not significantly increase the cost of filing a waiver request. Regardless of how a waiver request is filed, using a form, in writing or by petition, the slot machine licensee must still provide the same information needed to demonstrate how the alternative controls that are being proposed will still meet the operational integrity requirements of the regulations. So, while the form of the filing will be different, the substance of the filing will be essentially the same.

Finally, the Board has not adopted IRRC's suggestion that it add examples of items that it would grant a waiver. It would be difficult to give examples because each waiver request will be somewhat unique and the Board's decision will be based on the particular details contained in the petition. Additionally, when the Board has identified particular circumstances where waivers of the Board's regulations are appropriate, it has amended its regulations accordingly.

Affected Parties

This final-form rulemaking will affect slot machine licensees and individuals who hold a license, permit or registration.

Fiscal Impact

Commonwealth

The clarifications and revised procedures contained in this final-form rulemaking will improve the operations of the Board which may result in some savings. However, the magnitude of these savings is expected to be minimal.

Political Subdivisions

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

Private Sector

Because most of the changes in this final-form rule-making reflect current industry practices, provide greater operational flexibility or simplify existing requirements, the net impact of these changes may result in some slight savings for slot machine licensees.

General Public

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

Paperwork Requirements

Slot machine licensees will no longer be required to submit copies of proposed changes to their internal controls to the Department.

Individuals who hold a license, permit or registration will be required to notify the Board if they are arrested, charged, indicted or convicted of a felony offense.

Effective Date

This 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 at (717) 214-8111.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 14, 2008, the Board submitted a copy of this proposed rulemaking, published at 39 Pa.B. 418 and a copy of the Regulatory Analysis Form to IRRC and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee (Committees).

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 received from IRRC, the Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), the final-form rulemaking was deemed approved by the Committees on July 22, 2009. Under section 5.1(e) of the Regulatory Review Act IRRC met on July 23, 2009 and approved the final-form rule-making.

Findings

The Board finds that:

(1) Public notice of intention to adopt these amendments 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 (relating to notice of proposed rulemaking required; and adoption of regulations).

(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 Chapters 403a, 435a, 441a, 461a and 465a are amended by amending §§ 403a.6, 435a.1, 441a.5, 461a.10, 461a.22, 461a.24,

465a.5, 465a.16, 465a.28, 465a.29 and 465a.30 to read as set forth at 39 Pa.B. 418; and by amending §§ 465a.2, 465a.6, 465a.12, 465a.28 and 465a.29 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Chairperson of the Board shall certify this order, 39 Pa.B. 418 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

GREGORY C. FAJT,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 39 Pa.B. 4832 (August 8, 2009).)

Fiscal Note: Fiscal Note 125-96 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

CHAPTER 465a. ACCOUNTING AND INTERNAL CONTROLS

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

* * * * *

(f) If a slot machine licensee intends to make a change or amendment to its system of internal controls, it shall submit the change or amendment electronically to the Bureau of Gaming Operations using the Internal Controls Amendment Request Form posted on the Board's web site (www.pgcb.state.pa.us). A request for a change or amendment must include electronic copies of the attestations required under subsection (b)(1) and (2). The slot machine licensee may implement the change or amendment upon receipt of written notice of approval from the Board's Executive Director or 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 or written notice of disapproval from the Board's Executive Director.

(g) If during the 30-day review period in subsection (f), the Bureau of Gaming Operations 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, the Bureau of Gaming Operations, 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 under subsection (i).

* * * * *

(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 the Bureau of Gaming Operations. The slot machine licensee may implement the revised change or amendment upon receipt of written

notice of approval from the Board's Executive Director or on the 30th calendar day following the filing of the revision unless it receives written notice under subsection (g) tolling the change or amendment or written notice of disapproval from the Board's Executive Director.

* * * * *

§ 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 under § 451a.1 (relating to recordkeeping generally) or 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 in a secure location in the licensed facility that is equipped with a fire suppression system or at another 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 Bureau of Gaming Operations 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 location, including security and fire suppression 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 location outside the licensed 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 micro-filmed, 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.12. Access badges.

(a) Slot machine licensees shall develop an access control matrix indicating the restricted areas in a licensed facility that an employee may access for each employee job description. Access to restricted areas by an employee shall be limited to the restricted areas that the employee needs to access in the course of the performance of the employee's normal duties listed in the employee's job description.

(b) In the internal controls required to be submitted under § 465a.2 (relating to internal control systems and audit protocols), the slot machine licensee shall designate the individuals who shall be responsible for determining the appropriate level of access for each job description and updating the level of access when a job description changes. The level of access information for each employee shall be transmitted to the individual or individuals designated in subsection (c).

(c) In the internal controls required to be submitted under § 465a.2, the slot machine licensee shall designate the individuals who shall develop and maintain an electronic database system, or its functional equivalent, which contains the access level of all employees of the slot machine licensee. The electronic database system must be capable of tracking who enters or changes the access level assigned to each employee.

(d) In the internal controls required to be submitted under § 465a.2, the slot machine licensee shall designate the individuals who shall be responsible for entering or making changes to the access level of employees of the slot machine licensee in the electronic database system.

(e) Read-only access to the electronic database system shall be made available through secure computer access to the Board's representatives at the licensed facility.

(f) Slot machine licensees shall develop an access badge system consisting of a badge that contains the employee's name and a color, code or symbol that indicates the areas in the licensed facility that the employee is allowed to access.

(g) Employees of a slot machine licensee shall be required to wear an access badge in a visible location at all times while they are working in a licensed facility.

§ 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 web site.

(2) The Executive Director has approved the specific offer of the merchandise jackpot. To obtain the Executive Director's approval, a slot machine licensee shall file a written request with the Bureau of Gaming Operations containing all of the details related to the merchandise jackpot payout including:

(i) A detailed description of the merchandise jackpot.

(ii) A description of the slot machines that will offer the merchandise jackpot.

(iii) Supporting documentation relating to the valuation of the merchandise offered as the merchandise jackpot.

(b) A merchandise jackpot may consist of one of the following:

(1) A payout that consists of both merchandise and cash.

(2) A payout of merchandise only with an optional cash payout that the patron may elect to receive in lieu of receiving the merchandise.

* * * * *

§ 465a.29. Automated teller machines.

(a) Automated teller machines may be placed at any location within a licensed facility.

(b) An automated teller machine must have a label on the top of the automated teller machine and on the front of the automated teller machine that displays a unique identification number of the automated teller machine. The labels must have white lettering on a black background or other color combination approved by the Bureau of Gaming Operations, may not be easily removed and must be easily visible to the surveillance department. The label on the top of the automated teller machine must be at least 1.5 inches by 5.5 inches and the label on the front of the automated teller machine must be at least 1 inch by 2.5 inches.

[Pa.B. Doc. No. 09-1608. Filed for public inspection August 28, 2009, 9:00 a.m.]