

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

[49 PA. CODE CH. 39]

Continuing Education

The State Board of Examiners of Nursing Home Administrators (Board) amends § 39.61 (relating to requirements) to read as set forth in Annex A.

The final-form rulemaking amends the Board's regulations regarding the obligation of licensed nursing home administrators to complete 48 hours of continuing education during each biennial license period.

The final-form rulemaking amends § 39.61 to clarify that continuing education hours must be completed in courses that are preapproved by the Board or the National Association of Boards of Examiners of Long-Term Care Administrators, except in limited circumstances when retroactive course approval is permitted or when the continuing education involved service as an instructor, authorship of an article or completion of an administrator-in-training program. The final-form rulemaking also amends § 39.61 to eliminate requirements and restrictions on the number of continuing education hours that may be obtained through lecture and interactive computer courses, correspondence courses and college and university courses; to increase the number of continuing education hours that may be obtained through courses that have been approved retroactively; to enlarge the time frame during which retroactive course approval or credit for authorship of articles can be obtained; and to clarify the circumstances under which the Board may waive a particular continuing education requirement or grant an extension of time to complete continuing education hours. The final-form rulemaking also reorganizes § 39.61 by relettering and renumbering subsections and paragraphs.

Statutory Authority

The final-form rulemaking is authorized under section 9(b) of the Nursing Home Administrators License Act (act) (63 P. S. § 1109(b)), which empowers the Board to require continuing education as a condition of biennial renewal of licensure, and section 4(c) of the act (63 P. S. § 1104(c)), which empowers the Board to adopt regulations as are necessary for the performance of its statutory duties.

Summary of Comments and Responses to Proposed Rulemaking

The Board published the proposed rulemaking at 39 Pa.B. 1005 (February 21, 2009) with a 30-day public comment period.

The Board received comments in support of the proposed rulemaking from the Pennsylvania Health Care Association, an advocacy organization for compassionate, quality long-term care for elderly and disabled residents in this Commonwealth; PANPHA, a trade association representing more than 360 nonprofit providers of hous-

ing and health-related services to elderly residents in this Commonwealth; and Foulkeways at Gwynedd, a continuing care retirement community in this Commonwealth.

The Board received comments from the Independent Regulatory Review Commission (IRRC) and the House Professional Licensure Committee (HPLC) as part of their review of proposed rulemaking under the Regulatory Review Act (71 P. S. §§ 745.1—745.12). The Board did not receive comments from the Senate Committee on Consumer Protection and Professional Licensure (SCP/PLC) as part of its review of proposed rulemaking under the Regulatory Review Act.

IRRC's comments regarded the provisions for granting a continuing education waiver or an extension of time to complete continuing education. Section 39.61(e) currently provides that a licensee who cannot meet the continuing education requirement for reasons of illness, emergency or hardship may apply in writing to the Board for a waiver. The waiver request must explain why compliance with the continuing education requirement is impossible and must be accompanied by appropriate documentation. The Board evaluates each request on a case-by-case basis. In addition to redesignating it as § 39.61(f), the proposed rulemaking amended current § 39.61(e) to add language providing that in the event the Board determines that a licensee has not established entitlement to a waiver on the basis of illness, emergency or hardship, the Board may grant the licensee an extension of time to complete the continuing education requirement.

IRRC asked the Board to explain why current § 39.61(e) was being amended. IRRC also asked the Board to explain why a licensee who has failed to establish an illness, emergency or hardship should nevertheless be considered eligible for an extension of time to complete the continuing education requirement. IRRC further asked the Board to explain the standards, or grounds, on which the Board will base its decision whether to grant an extension of time. Finally, IRRC asked the Board to explain how and when a licensee will be notified of the Board's decision to grant a waiver or an extension of time.

The Board's intent in amending current § 39.61(e) was to clarify that a licensee who, for good cause, is unable to comply with some aspect of the continuing education requirement may obtain relief in the nature of a waiver or an extension of time. The proposed rulemaking did not adequately differentiate between the circumstances justifying the granting of a waiver and the circumstances justifying the granting of an extension of time.

The Board believes that a licensee's obligation under § 39.61(a) and redesignated § 39.61(d) to complete 48 hours of continuing education during each biennial license period, or a prorated amount in the case of a licensee's initial biennial license period, cannot be waived; however, a licensee may be granted an extension of time to complete continuing education hours if timely compliance is not possible because of illness, emergency or hardship. The Board believes that the other requirements in § 39.61, such as the limitation on the number of continuing education hours that may be obtained through retroactively approved courses or authorship of articles, may be waived upon a licensee's showing of illness, emergency or hardship. The final-form rulemaking makes this distinction clear in § 39.61(f).

The Board does not believe it is necessary to specify in § 39.61(f) how and when a licensee will be notified of the Board's action on a request for a waiver or an extension of time. Since the right to request a waiver was added to § 39.61 in March 2001, the Board has always acted expeditiously on requests when they are received. A licensee, nursing home or professional association has never complained about the promptness or manner of the Board's responses to requests for waivers.

The HPLC commented that the proposed rulemaking incorrectly renumbered paragraphs in § 39.61(b). The final-form rulemaking corrects the renumbering.

Fiscal Impact and Paperwork Requirements

The final-form rulemaking will not have an adverse fiscal impact on the regulated community, the general public or the Commonwealth and its political subdivisions.

The final-form rulemaking will not impose additional paperwork requirements on the regulated community, the general public or the Commonwealth and its political subdivisions.

Effective Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 11, 2009, the Board submitted a copy of the notice of proposed rulemaking, published at 39 Pa.B. 1005, to IRRC and to the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on April 21, 2010, the final-form rulemaking was approved by the HPLC. On May 12, 2010, 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 13, 2010, and approved the final-form rulemaking.

Additional Information

Persons who require additional information about the final-form rulemaking should submit inquiries to Christina Stuckey, Administrator, State Board of Examiners of Nursing Home Administrators, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7155, ST-NHA@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 39 Pa.B. 1005.

(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 39, are amended by amending § 39.61 to read as set forth in Annex A.

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

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

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

ROBERT A. ETCHHELLS,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 2838 (May 29, 2010).)

Fiscal Note: Fiscal Note 16A-6212 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 39. STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

CLOCK HOURS REQUIREMENT

§ 39.61. Requirements.

(a) A licensee shall complete at least 48 clock hours of continuing education during the preceding biennial period.

(b) All continuing education clock hours shall be completed in courses preapproved by NAB or the Board, except as provided in subsection (c)(2)—(5).

(c) Of the 48 clock hours required, the following apply:

(1) Up to 48 clock hours may be taken in lecture, college or university, computer interactive, distance learning or correspondence courses preapproved by NAB or the Board.

(2) A maximum of 12 clock hours may be earned by serving as an instructor of a NAB or Board-approved continuing education program or as an instructor of a college or university course approved by NAB or the Board. Instructors may earn 1 clock hour for each hour of instruction up to 12 clock hours.

(3) Clock hours may be earned by authoring an article on long-term care as follows:

(i) Authors whose articles relating to long-term care are published in professional journals may earn 3 clock hours per article, up to a maximum of 12 clock hours per biennium.

(ii) Additional credit per article, up to 12 of the required clock hours, may be awarded based on the complexity of the subject matter or work.

(iii) In exceptional circumstances, when the article is published in a refereed journal, and the subject matter or work is complex, a licensee may be awarded up to 24 clock hours.

(iv) Published articles used for continuing education credit shall be submitted to the Board within 60 days of publication. Upon review of the published article, the Board will determine the appropriate number of clock hours to be awarded based upon the complexity of the subject matter or work.

(4) Up to 24 clock hours may be obtained by serving as a supervisor in a Board-approved AIT program, when the AIT successfully completes the AIT program.

(5) A maximum of 12 clock hours may be awarded retroactively for attending programs, to include lectures, and college or university courses, which have not been preapproved. The attendee shall submit a written request for approval within 60 days of attending the program and document attendance. The attendee shall demonstrate to the Board's satisfaction that the programs meet the requirements in §§ 39.14(a)(2) and 39.51 (relating to approval of programs of study; and standards for continuing education programs).

(d) A licensee who obtains a license after the biennial period begins shall complete a prorated amount of clock hours equal to 2 clock hours per month through the end of the biennial period. For the purpose of calculating the number of clock hours required, partial months shall count as whole months.

(e) A licensee suspended for disciplinary reasons is not exempt from the continuing education requirements in subsection (a).

(f) A licensee who cannot meet the overall continuing education clock hour requirement in subsection (a) or (d) due to illness, emergency or hardship may apply to the Board in writing prior to the end of the renewal period for an extension of time to complete the clock hours. A licensee who cannot meet any other requirement in this section due to illness, emergency or hardship may apply to the Board in writing prior to the end of the renewal period for a waiver of the requirement. An extension or waiver request must explain why compliance is impossible, and include appropriate documentation. An extension or waiver request will be evaluated by the Board on a case-by-case basis.

(g) A licensee will not be credited for repeating a program in the same renewal period unless the subject matter has substantially changed during that period.

[Pa.B. Doc. No. 10-1071. Filed for public inspection June 11, 2010, 9:00 a.m.]

**STATE BOARD OF EXAMINERS OF NURSING
HOME ADMINISTRATORS
[49 PA. CODE CH. 39]
Temporary Permits**

The State Board of Examiners of Nursing Home Administrators (Board) amends §§ 39.1 and 39.4 (relating to definitions; and admission to practice; temporary permits) to read as set forth in Annex A.

The final-form rulemaking amends the Board's regulations regarding the issuance of temporary permits. Under the Nursing Home Administrators License Act (act) (63

P. S. §§ 1101—1114.2), the Board may issue a permit to an individual to serve as a nursing home administrator up to 1 year in the event of unusual circumstances such as the death, disability, resignation or dismissal of the licensed administrator.

The final-form rulemaking amends the definition of "temporary permit" in § 39.1 to clarify that only an individual may hold a permit and that the holder of a permit is authorized to serve as administrator only in the particular nursing home specified on the permit application. The final-form rulemaking also amends § 39.4 to clarify that the holder of a temporary permit who meets the education and experience requirements for licensure may apply to sit for the nursing home administrators licensing examination; that a temporary permit will not be issued to an applicant who has failed a part of the licensing examination; that a temporary permit becomes void if the holder fails a part of the licensing examination or the nursing home obtains the services of a licensed administrator; and that the holder of a temporary permit shall immediately notify the Board of an event that voids the permit and return the permit to the Board.

Statutory Authority

The final-form rulemaking is authorized under section 14 of the act (63 P. S. § 1114), which empowers the Board to issue temporary permits, and section 4(c) of the act (63 P. S. § 1104(c)), which empowers the Board to adopt regulations as are necessary for the performance of its statutory duties.

Summary of Comments and Responses to Proposed Rule-making

The Board published the proposed rulemaking at 38 Pa.B. 1168 (March 8, 2008) with a 30-day public comment period. The Board received a general comment in support of the proposed rulemaking from the Pennsylvania Association of County Affiliated Homes.

The Board received comments from the Independent Regulatory Review Commission (IRRC) and the House Professional Licensure Committee (HPLC) as part of their review of proposed rulemaking under the Regulatory Review Act (71 P. S. §§ 745.1—745.12). The Board did not receive comments from the Senate Committee on Consumer Protection and Professional Licensure (SCP/PLC) as part of its review of proposed rulemaking under the Regulatory Review Act.

§ 39.1. Definitions.

The proposed definition of "temporary permit" in § 39.1 provided as follows: "A permit issued by the Board which authorizes a person not licensed by the Board to serve as a nursing home administrator only in the particular facility indicated on the permit application for up to 1 year in the event of unusual circumstances affecting the administration of a nursing home, such as the death, disability, resignation or dismissal of the licensed administrator or other emergency as determined by the Board."

The HPLC recommended that the definition of "temporary permit" be revised by substituting the word "individual" for "person." The HPLC noted that the word "person" is defined in 1 Pa.C.S. § 1991 (relating to definitions) to include entities such as a corporation and a limited liability company. Because a licensed nursing home administrator can only be an individual, not an entity, the Board agrees that the definition should be clarified to reflect that the holder of a temporary permit to serve as a nursing home administrator must be an

individual. Accordingly, the final-form rulemaking incorporates the HPLC's recommendation.

§ 39.4. *Admission to practice; temporary permits.*

The proposed rulemaking made an editorial change to § 39.4(3)(ii), which, as proposed, provided that the issuance of a temporary permit will not be construed to mean that the holder qualifies to sit for the nursing home administrators licensing examination.

The HPLC commented that while it understands that the mere possession of a temporary permit does not automatically qualify an individual to sit for the licensing examination, it recommended that § 39.4(3)(ii) be revised to clarify that a temporary permit holder who otherwise satisfies the requirements for admission to the licensing examination be allowed to do so. The Board agrees that this clarification is warranted. The final-form rulemaking further revises § 39.4(3)(ii) to provide that a temporary permit holder who meets the education and experience requirements in § 39.5(b) (relating to requirements for admission to licensing examination; examination procedures) may apply to sit for the licensing examination.

§ 39.17. *Policy statement regarding temporary permits.*

Proposed § 39.17 sets forth a statement of policy with regard to the issuance of temporary permits. The first sentence of current § 39.17 provides that the Board will not issue temporary permits to applicants who wish to fill positions that have been vacated for reasons such as promotions and transfers. The second sentence of current § 39.17 provides that the Board will not extend or reissue temporary permits to individuals who fail the nursing home administrators licensing examination.

The proposed rulemaking reorganized § 39.17 into two subsections. The proposed rulemaking labeled the first sentence as subsection (a) and clarified that the referenced vacancies resulted from intracompany promotions and transfers. The proposed rulemaking deleted the second sentence of current § 39.17 in favor of adding new binding requirements in § 39.4(3)(iii) and (vi) that prohibit the issuance of a temporary permit to an applicant who failed a part of the nursing home administrators licensing examination and that void a temporary permit if the holder failed a part of the examination. The proposed rulemaking added subsection (b), which provided that the issuance of a temporary permit is not intended to create a suitable candidate for licensure and that the Board will not consider experience gained in the practice of nursing home administration while serving under a temporary permit as counting toward the requirements in § 39.5 for admission to the licensing examination.

IRRC commented that inasmuch as a statement of policy, being a nonbinding norm, is not subject to the Regulatory Review Act, the Board should not include § 39.17 as part of its final-form rulemaking unless the Board intends to rescind § 39.17 and to relocate the remaining contents of the policy statement to § 39.4 where they would have binding effect as a regulation. The Board intends to retain a revised version of § 39.17 as a statement of policy. Accordingly, the final-form rulemaking does not include § 39.17. The Board will separately publish amendments to § 39.17 that are consistent with the final-form rulemaking.

The HPLC recommended that revised § 39.17 should not contain language in the proposed rulemaking stating that the issuance of a temporary permit is not intended to create a suitable candidate for licensure. The HPLC said the proposed language was unnecessary because a candidate for licensure shall demonstrate his suitability and

that it is implicit that a candidate's tenure as a temporary permit holder does not establish suitability. The Board believes that the proposed language is useful because it provides reinforcement to prospective candidates for licensure that service as an interim administrator under authority of a temporary permit does not confer advantage toward becoming a licensed administrator.

Disciplinary Process

The HPLC asked the Board to provide information about the following: (1) how often the Board prosecutes or takes disciplinary action against temporary permit holders; (2) what are the bases for disciplinary action against permit holders; (3) what are the costs associated with taking disciplinary action against permit holders; and (4) whether disciplinary action taken against licensed administrators is the same as that taken against permit holders.

A temporary permit holder has never been the subject of a disciplinary proceeding before the Board. The Board would likely interpret the disciplinary provisions in sections 11 and 12 of the act (63 P.S. §§ 1111 and 1112) as applicable with equal force to both licensees and permit holders. If disciplinary action were taken against a permit holder in the future, the cost of the action would depend on the circumstances of the case. In any event, the cost of particular disciplinary action is defrayed by biennial renewal fees.

Fiscal Impact and Paperwork Requirements

The final-form rulemaking will not have an adverse fiscal impact on the regulated community, the general public or the Commonwealth and its political subdivisions.

The final-form rulemaking will not impose additional paperwork requirements on the regulated community, the general public or the Commonwealth and its political subdivisions.

Effective Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on February 27, 2008, the Board submitted a copy of the notice of proposed rulemaking, published at 38 Pa.B. 1168, to IRRC and to the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on April 21, 2010, the final-form rulemaking was approved by the HPLC. On May 12, 2010, 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 13, 2010, and approved the final-form rulemaking.

Additional Information

Persons who require additional information about the final-form rulemaking should submit inquiries to Christina Stuckey, Administrator, State Board of Examiners of

Nursing Home Administrators, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7155, ST-NHA@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 38 Pa.B. 1168.

(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 39, are amended by amending §§ 39.1 and 39.4 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

ROBERT A. ETHELLES,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 40 Pa.B. 2838 (May 29, 2010).)

Fiscal Note: Fiscal Note 16A-629 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 39. STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

GENERAL

§ 39.1. Definitions.

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

* * * * *

Temporary permit—A permit issued by the Board which authorizes an individual not licensed by the Board to serve as a nursing home administrator only in the particular facility indicated on the permit application for up to 1 year in the event of unusual circumstances affecting the administration of a nursing home, such as

the death, disability, resignation or dismissal of the licensed administrator or other emergency as determined by the Board.

§ 39.4. Admission to practice; temporary permits.

Admission to the practice of nursing home administration in this Commonwealth will be granted by the Board as follows:

(1) By the issuance of a license by examination to an applicant who meets the requirements in section 6 of the act (63 P. S. § 1106) and in this chapter.

(2) By the issuance of a license by endorsement to an applicant who has been licensed by examination in another state of the United States, if the applicant meets the requirements in section 10 of the act (63 P. S. § 1110) and of this chapter.

(3) By issuance of a temporary permit to an applicant who meets the requirements in section 14 of the act (63 P. S. § 1114) and in this chapter. The issuance of a temporary permit is subject to the following conditions:

(i) A temporary permit entitles the holder to serve in an emergency as a nursing home administrator only in the particular facility indicated on his application, and is valid for a period as determined by the Board, not to exceed 1 year from the date of issuance, and may not be thereafter renewed or continued.

(ii) The issuance of a temporary permit will not be construed to mean that the holder qualifies to sit for the nursing home administrators licensing examination. However, if the holder meets the education and experience requirements in § 39.5(b) (relating to requirements for admission to licensing examination; examination procedures), the holder may apply to sit for the nursing home administrators licensing examination.

(iii) The Board will not issue a temporary permit to an applicant who has failed to pass any part of the nursing home administrators licensing examination.

(iv) Public notice of the issuance of a temporary permit will be given by the Board in accordance with 45 Pa.C.S. §§ 301—310 (relating to Newspaper Advertising Act), with the cost of advertising the notice to be paid by the holder of the temporary permit. The public notice concerning the temporary permit will be advertised in a daily newspaper published in the county where the nursing home is located, once a week for 3 consecutive weeks, and will contain the following information: the name and address of the holder of the temporary permit, the name and address of the nursing home which the holder of the temporary permit is permitted to serve, the reason for the issuance of the temporary permit, the period for which the temporary permit is issued, the date the temporary permit expires and other information the Board may require as relevant.

(v) Prior to the issuance of a temporary permit, the applicant shall appear before the Board accompanied by the manager, owner or representative of the governing body of the facility in which the applicant will be acting as a nursing home administrator if the permit is issued.

(vi) A temporary permit becomes void if either the holder fails to pass any part of the nursing home administrators licensing examination or the facility obtains the services of a licensed nursing home administrator and the holder must cease performing his duties as a temporary nursing home administrator immediately upon the occurrence of either event.

(vii) The temporary permit holder shall notify the Board and immediately return the temporary permit to the Board if the holder fails to pass any part of the nursing home administrators licensing examination or when the facility obtains the services of a licensed nursing home administrator.

[Pa.B. Doc. No. 10-1072. Filed for public inspection June 11, 2010, 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), at its April 20, 2010, meeting, amended § 135.1 (relating to scope) and added Subchapter M (relating to purchase of properties at auction and tax sales) to Chapter 135 (relating to lands and buildings) to authorize the Executive Director to bid on real estate, oil, gas or mineral rights at auction or tax sales.

The final-form rulemaking will not have an 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 40 Pa.B. 1755 (April 3, 2010).

1. Purpose and Authority

As authorized in section 701(a) of the code (relating to acquisition of property), the Commission may acquire property by purchase, gift, lease, eminent domain or otherwise, including, but not limited to, auction purchases. The Commission is further authorized to purchase tax delinquent lands, waters, oil, gas and minerals as provided by law, including, but not limited to, tax sales. Tax sales or auctions often are announced between regular Commission meetings and are to be held sooner than is practicable to organize and hold a special meeting or notational vote. The Commission amended § 135.1 and added Subchapter M to authorize the Executive Director to bid on real estate, oil, gas or mineral rights at auction or tax sales.

Section 322(c)(12) of the code (relating to powers and duties of commission) specifically empowers the Commission to “Take any necessary action to accomplish and assure the purposes of this title.” Section 2102(a) of the code (relating to regulations) provides that “The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth.” The amendments to § 135.1 and addition of Subchapter M were adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking amends § 135.1 and adds Subchapter M to authorize the Executive Director to bid on real estate, oil, gas or mineral rights at auction or tax sales.

3. Persons Affected

Citizens of this Commonwealth may be affected by the final-form rulemaking.

4. Comment and Response Summary

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

5. Cost and Paperwork Requirements

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

6. Effective Date

The final-form rulemaking will be effective upon 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.

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.

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 135, are amended by amending § 135.1 and by adding § 135.40 to read as set forth 40 Pa.B. 1755.

(b) The Executive Director of the Commission shall certify this order and 40 Pa.B. 1755 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 48-304 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 10-1073. Filed for public inspection June 11, 2010, 9:00 a.m.]

GAME COMMISSION
[58 PA. CODE CH. 139]
Seasons and Bag Limits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 20, 2010, meeting, amended § 139.4 (relating to seasons and bag limits for the license year) to provide updated seasons and bag limits for the 2010-2011 hunting license year.

The final-form rulemaking will not have an 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 40 Pa.B. 1756 (April 3, 2010).

1. Purpose and Authority

The Commission is required to set hunting and furtaking seasons and bag limits on an annual basis. Although the 2010-2011 seasons and daily season and possession limits are similar to those set in 2009-2010, the 2010-2011 seasons and bag limits have been amended to conform to current available scientific data, population and harvest records, field surveys and professional staff observations, as well as recommendations received from staff, organized sporting groups, members of the agricultural community and others interested in the wildlife resources of this Commonwealth. Some notable changes for hunters next season will be expanded cottontail rabbit hunting opportunities for junior hunters, reduced wild turkey hunting opportunities in wildlife management units (WMU) 1A, 1B, 2A, 2B, 2C, 2D, 2E, 2G, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 4E, 5C and 5D, expanded wild turkey hunting opportunities in WMUs 2F and 5A, expanded archery deer hunting opportunities in WMUs 2B, 5C and 5D, reduced antlerless deer hunting opportunities during the regular firearms season in WMUs 2C, 2E, 4D and 4E, expanded archery bear hunting opportunities Statewide, reduced bear hunting opportunities in WMUs 2G, 3B, 4C, 4D, 4E, 5C and 5D, reduced bobcat hunting/trapping opportunities in WMUs 2A, 2C, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A, 4D and 4E, the creation of fisher hunting/trapping opportunities in WMUs 2C, 2D, 2E and 2F, and finally expanded elk hunting opportunities outside of the elk management area. As the next license year is fast approaching, the Commission amended § 139.4 to provide updated seasons and bag limits for the 2010-2011 license year.

Section 322(c)(1) of the code (relating to powers and duties of commission) specifically empowers the Commission to “fix seasons, daily shooting or taking hours, and any modification thereof, and daily, season and possession limits for any species of game or wildlife.” Section 2102(b)(1) (relating to regulations) of the code authorizes the Commission to “promulgate regulations relating to seasons and bag limits for hunting or furtaking . . .” The amendments to § 139.4 were adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking amends § 139.4 by establishing when and where it is lawful to hunt and trap various game species and also place limits on the numbers that can be legally taken during the 2010-2011 license year.

3. Persons Affected

Persons wishing to hunt or trap game or wildlife within this Commonwealth during the 2010-2011 license year will be affected by the final-form rulemaking.

4. Comment and Response Summary

The Commission received a total of 272 official comments concerning this final-form rulemaking. The comments received concerned the following subtopics:

Deer seasons

Out of a total of 188 comments received concerning this subtopic, 97 requested a return to the 3-day antlerless deer season, five requested that the split regular firearms deer season be applied Statewide, 13 requested the 2-week concurrent deer season be applied Statewide, 21 opposed the split regular firearms deer season for WMU 2C, one requested that regular firearms deer season open on the Saturday after Thanksgiving, one requested that antlerless firearms deer seasons be closed by mid-January in WMUs 2B, 5C and 5D, one supported the October antlerless deer seasons, one requested leaving antlerless deer seasons open from the end of the regular firearms deer season to Christmas in WMUs 2B, 5C and 5D, three requested that antlerless deer seasons be closed permanently, one requested that antlerless deer seasons be closed for 3 or 4 years, 28 requested that antlerless deer seasons be closed for 2010, four requested that antlerless deer seasons be closed on State game lands, one requested a shortened antlerless deer season in WMU 2B to save drop-antler bucks, one requested an extension in deer seasons until February 1st in WMU 5C, four requested that flintlock muzzleloader deer season conclude at the end of January, one requested a longer flintlock muzzleloader deer season, one requested a shorter flintlock muzzleloader deer season, one requested that the mid-October muzzleloader deer season be scheduled for another time, two requested a shorter archery deer season and one requested a longer archery deer season.

Bear seasons

Out of a total of 62 comments received concerning this subtopic, eight supported the Saturday opening day for firearms bear season, 47 opposed the Saturday opening day for firearms bear season, six opposed the elimination of the extended bear seasons that run concurrent with the regular firearms deer season, one requested that the firearms bear season open on the first Monday after Thanksgiving, one requested that the entire firearms bear season be moved up 1 week earlier, four supported the week long archery bear season, two opposed the week long archery bear season and three requested that archery bear season run concurrent with archery deer season.

Turkey seasons

Out of a total of 19 comments received concerning this subtopic, nine opposed the shortening of fall turkey season for bear season, one requested that fall turkey season be moved up 1 week to avoid conflict with the Saturday opening day for firearms bear season, one opposed the current opening day for the spring season, two opposed the closure of fall turkey season in WMU 5C, two requested an extension in fall turkey season in WMU 2D and four requested that the spring turkey season be started earlier.

Small game seasons

Out of a total of two comments received concerning this subtopic, one supported the expansion of cottontail rabbit

season to late February and one requested that squirrel season be extended to late February.

Furbearer hunting/trapping seasons

Out of a total of 23 comments received concerning this subtopic, one requested an increase in bobcat hunting opportunities in WMU 4E, 18 opposed the reduction of the bobcat season, three supported the bobcat season changes and one requested that cable restraint seasons run concurrent with regular trapping seasons.

Waterfowl seasons

The single comment received concerning this subtopic requested that duck season be closed during the regular firearms deer season.

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

The effective dates of the final-form rulemaking are July 1, 2010, to June 30, 2011.

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.

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.

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 139, are amended by amending § 139.4 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 48-297 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 139. SEASONS AND BAG LIMITS

§ 139.4. Seasons and bag limits for the license year.

**(SEASONS AND BAG LIMITS TABLE)
2010-2011 OPEN HUNTING AND FURTAKING SEASONS, DAILY LIMIT,
FIELD POSSESSION LIMIT AND SEASON LIMIT
OPEN SEASON INCLUDES FIRST AND LAST DATES LISTED**

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Squirrels—(Combined species) Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law.	Oct. 9	Oct. 15	6	12
Squirrels—(Combined species)	Oct. 16	Nov. 27	6	12
		and		
	Dec. 13	Dec. 23		
		and		
	Dec. 27	Feb. 5, 2011		
Ruffed Grouse	Oct. 16	Nov. 27	2	4
		and		
	Dec. 13	Dec. 23		
		and		
	Dec. 27	Jan. 22, 2011		
Rabbits, Cottontail Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law.	Oct. 9	Oct. 16	4	8

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Rabbits, Cottontail	Oct. 23		Nov. 27	4	8
		and			
	Dec. 13		Dec. 23		
		and			
	Dec. 27		Feb. 26, 2011		
Ring-necked Pheasant—There is no open season for the taking of pheasants in any area designated as a wild pheasant recovery area within any wildlife management unit.					
Ring-necked Pheasant—Male only in WMUs 2A, 2B, 2C, 4C, 4E, 5A and 5B Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law.	Oct. 9		Oct. 16	2	4
Ring-necked Pheasant—Male or female combined in WMUs 1A, 1B, 2D, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A, 4B, 4D, 5C and 5D Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law.	Oct. 9		Oct. 16	2	4
Ring-necked Pheasant—Male only in WMUs 2A, 2B, 2C, 4C, 4E, 5A and 5B	Oct. 23		Nov. 27	2	4
Ring-necked Pheasant—Male or female combined in WMUs 1A, 1B, 2D, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A, 4B, 4D, 5C and 5D	Oct. 23		Nov. 27	2	4
		and			
	Dec. 13		Dec. 23		
		and			
	Dec. 27		Feb. 5, 2011		
Bobwhite Quail—The hunting and taking of bobwhite quail is permitted in all WMUs except in WMUs 4A, 4B, 5A, 5B, 5C and 5D where the season is closed.	Oct. 23		Nov. 27	4	8
Hares (Snowshoe Rabbits) or Varying Hares	Dec. 27		Jan. 1, 2011	1	2
Woodchucks (Groundhog)	No closed season except during the regular firearms deer seasons and during legal hunting hours of the spring gobbler turkey season.			Unlimited	
<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Turkey—Male or Female				1	1
WMUs 1A, 1B and 2A (Shotgun, Bow and Arrow only)	Nov. 13		Nov. 19		
		and			
	Nov. 25		Nov. 27		
WMU 2B (Shotgun, Bow and Arrow only)	Nov. 6		Nov. 19		
		and			
	Nov. 25		Nov. 27		
WMUs 2C, 2D, 2E, 4A, 4B and 4D	Nov. 13		Nov. 19		
		and			
	Nov. 25		Nov. 27		

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
WMUs 2F, 2G, 3A, 3B, 3C, 3D, 4C and 4E	Nov. 6	Nov. 19		
	and			
	Nov. 25	Nov. 27		
WMU 5A	Nov. 16	Nov. 18		
WMUs 5B, 5C and 5D	Closed to fall turkey hunting			
Turkey (Spring Gobbler) Statewide ¹ Bearded Bird only			1	2
	April 30, 2011	May 14, 2011		Turkey may be hunted 1/2 hour before sunrise to 12 noon.
	and			
	May 16, 2011	May 31, 2011		Turkey may be hunted 1/2 hour before sunrise to 1/2 hour after sunset.
Turkey (Spring Gobbler) Statewide Youth Hunt ¹ Bearded Bird only Eligible Junior Hunters only, with the required license and when properly accompanied as required by law	April 23, 2011	April 23, 2011	1	1

MIGRATORY GAME BIRDS

Except as further restricted by this chapter, the seasons, bag limits, hunting hours and hunting regulations for migratory game birds shall conform to regulations adopted by the United States Secretary of the Interior under authority of the Migratory Bird Treaty Act (16 U.S.C.A. §§ 703—711) as published in the *Federal Register* on or about August 27 and September 28 of each year. Exceptions:

(a) Hunting hours in § 141.4 (relating to hunting hours).

(b) Nontoxic shot as approved by the Director of the United States Fish and Wildlife Service is required for use Statewide in hunting and taking of migratory waterfowl.

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Crows	July 2	April 10, 2011	Unlimited	
(Hunting permitted on Friday, Saturday and Sunday only)				
Starlings and English Sparrows	No closed season except during the regular firearms deer seasons and during legal hunting hours of the spring gobbler turkey season.			Unlimited

FALCONRY

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Squirrels—(Combined species)	Sept. 1	Mar. 31, 2011	6	12
Bobwhite Quail	Sept. 1	Mar. 31, 2011	4	8
Ruffed Grouse	Sept. 1	Mar. 31, 2011	2	4
Cottontail Rabbits	Sept. 1	Mar. 31, 2011	4	8
Snowshoe or Varying Hare	Sept. 1	Mar. 31, 2011	1	2
Ring-necked Pheasant—Male and Female—(Combined)	Sept. 1	Mar. 31, 2011	2	4

Migratory Game Birds—Seasons and bag limits shall be in accordance with Federal regulations.

WHITE-TAILED DEER			
<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Season Limit</i>
Deer, Archery (Antlered and Antlerless) ² (Statewide)	Oct. 2 Dec. 27	and Jan. 15, 2011	One antlered and an antlerless deer with each required antlerless license.
Deer, Archery (Antlerless only) WMUs 2B, 5C and 5D	Sep. 18 Nov. 15	and Nov. 27	An antlerless deer with each required antlerless license.
Deer, Archery (Antlered and Antlerless) ² WMUs 2B, 5C and 5D	Oct. 2 Dec. 27	and Jan. 29, 2011	One antlered and an antlerless deer with each required antlerless license.
Deer, Regular firearms (Antlered and Antlerless) ² WMUs 1A, 1B, 2A, 2B, 2F, 3A, 3B, 3D, 4A, 4C, 5A, 5B, 5C and 5D	Nov. 29	Dec. 11	One antlered, and an antlerless deer with each required antlerless license.
Deer, Regular firearms (Antlered only) ² WMUs 2C, 2D, 2E, 2G, 3C, 4B, 4D and 4E	Nov. 29	Dec. 3	One antlered deer.
Deer, Regular firearms (Antlered and Antlerless) ² WMUs 2C, 2D, 2E, 2G, 3C, 4B, 4D and 4E	Dec. 4	Dec. 11	One antlered, and an antlerless deer with each required antlerless license.
Deer, Special firearms (Antlerless only) (Statewide) Only Junior and Senior License Holders, ³ Commission Disabled Person Permit Holders (to use a vehicle as a blind), and Residents serving on active duty in the U.S. Armed Forces, or in the U.S. Coast Guard, with required antlerless license	Oct. 21	Oct. 23	An antlerless deer with each required antlerless license.
Deer, Muzzleloading (Antlerless only) (Statewide)	Oct. 16	Oct. 23	An antlerless deer with each required antlerless license.
Deer, Flintlock (Antlered or Antlerless) ² (Statewide)	Dec. 27	Jan. 15, 2011	One antlered, or one antlerless-plus an additional antlerless deer with each required antlerless license.
Deer, Flintlock (Antlered or Antlerless) ² WMUs 2B, 5C and 5D	Dec. 27	Jan. 29, 2011	An antlerless deer with each required antlerless license.
Deer, Extended Regular firearms (Antlerless only) WMUs 2B, 5C and 5D	Dec. 27	Jan. 29, 2011	An antlerless deer with each required antlerless license.
Deer, (Antlerless only) (Letterkenny Army Depot, Franklin County and New Cumberland Army Depot, York County and Fort Detrick, Raven Rock Site, Adams County)	Hunting is permitted on days established by the United States Department of the Army.		An antlerless deer with each required antlerless license.

BLACK BEAR

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Bear, any age (Archery only) ⁴ (Statewide)	Nov. 15	Nov. 19	1	1
Bear, any age (Statewide) ⁴	Nov. 20	Nov. 23	1	1

ELK

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Elk, Regular (Antlered and Antlerless) ⁵	Nov. 1	Nov. 6	1	One elk with required license.
Elk, Special Conservation (Antlered and Antlerless) ⁵	Sept. 1	Nov. 6	1	One elk with required license.
Elk, Extended (Antlered & Antlerless) ⁵	Nov. 8	Nov. 13	1	One elk with required license.

FUR TAKING—TRAPPING

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Minks and Muskrats—(Statewide)	Nov. 20	Jan. 9, 2011		Unlimited
Beaver—(Statewide)	Dec. 26	Mar. 31, 2011		
WMUs 2E, 2F and 2G (Combined)			20	20
WMUs 1A, 1B, 3A, 3B, 3C and 3D (Combined)			20	40
WMUs 2A, 2B, 2C, 2D, 4A, 4B, 4C, 4D, 4E, 5A, 5B, 5C and 5D (Combined)			10	10
Coyotes, Foxes, Opossums, Raccoons, Skunks, Weasels—(Statewide)	Oct. 24	Feb. 20, 2011		Unlimited
Coyotes and Foxes—(Statewide) (Cable restraint devices may be used)	Dec. 26	Feb. 20, 2011		Unlimited
Bobcat—(with appropriate permit) WMUs 2A, 2C, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A, 4D and 4E	Dec. 18	Jan. 9, 2011	1	1
Fisher—(with appropriate permit) WMUs 2C, 2D, 2E and 2F	Dec. 18	Dec. 23	1	1

FUR TAKING—HUNTING

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Coyotes—(Statewide)				Unlimited
Coyotes—(During any archery deer season)				May be taken while lawfully hunting deer or with a furtaker's license.

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Coyotes—(During the regular firearms deer season and any bear season)	May be taken while lawfully hunting deer or bear or with a furtaker's license while wearing 250 square inches of daylight fluorescent orange-colored material in a 360° arc.			
Coyotes—(During the spring gobbler turkey season)	May be taken by persons who have a valid tag and meet fluorescent orange and shot size requirements.			
Opossums, Skunks, Weasels (Statewide)	No closed season. These species may not be hunted during legal hunting hours of the spring gobbler turkey season.			
Raccoons and Foxes—(Statewide)	Oct. 23	Feb. 19, 2011	Unlimited	
Bobcat—(with appropriate permit) WMUs 2A, 2C, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A, 4D and 4E	Dec. 18	Jan. 8, 2011	1	1

No open seasons on other wild birds or wild mammals.

¹ Only persons who possess a special wild turkey license as provided for in section 2709 of the act (relating to license costs and fees) may take a second spring gobbler during the hunting license year; all other persons, including mentored youth hunters, may take only one spring gobbler. A maximum of 2 gobblers per license year may be taken by any combination of licenses or exceptions for mentored youth.

² Only one antlered deer (buck) may be taken during the hunting license year.

³ Includes persons who have reached or will reach their 65th birthday in the year of the application for the license and hold a valid adult license or qualify for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions).

⁴ Only one bear may be taken during the hunting license year.

⁵ Only one elk may be taken during the hunting license year.

November 2010 Elk License Allocations

<i>Elk Hunt Zones</i>	<i>License Type</i>	
	<i>Antlered Open</i>	<i>Antlerless Open</i>
1	2	6
2	2	4
3	2	2
4	0	0
5	0	0
6	3	8
7	2	6
8	3	5
9	3	2
10	17	33
<i>Subtotal:</i>		
<i>Total Allocations:</i>	50	

2010 Antlerless Deer Allocations

<i>Wildlife Management Units (WMUs)</i>	<i>2010 Allocations</i>
1A	42,000
1B	28,500
2A	55,000
2B	68,000
2C	44,100
2D	50,400
2E	21,000
2F	25,200
2G	26,000
3A	26,000
3B	35,000
3C	27,000
3D	33,300

Wildlife Management Units (WMUs)

2010 Allocations

4A	29,000
4B	23,000
4C	35,000
4D	32,000
4E	27,000
5A	19,000
5B	51,000
5C	122,000
5D	22,000

Total Allocations:

841,500

The antlerless allocation as approved for each WMU for the 2010-2011 seasons shall be automatically reduced by the number of DMAP permits issued in that WMU for the 2009-2010 seasons and the DMAP permits issued for the 2010-2011 seasons shall not exceed the 2009-2010 totals in each said WMU without further action by this Board.

[Pa.B. Doc. No. 10-1074. Filed for public inspection June 11, 2010, 9:00 a.m.]

GAME COMMISSION
[58 PA. CODE CH. 141]
Hunting and Trapping

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 20, 2010, meeting, amended Chapter 141, Appendix G (relating to hunting hours) to update the tables of hunting hours for the 2010-2011 hunting year to reflect the annual change in days and subsequent hunting times. The Commission also amended § 141.4 (relating to hunting hours) to extend open hunting hours to 1/2 hour after sunset during the later portion of the spring gobbler season.

The final-form rulemaking will not have an 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 40 Pa.B. 1750 (April 3, 2010).

1. *Purpose and Authority*

Each year there is a shift in calendar days for each month. As a result of this occurrence, the tables of hunting hours in Appendix G must be amended and updated each year to reflect the current year's hunting dates and corresponding legal hunting hours. The Commission amended Appendix G to update the tables of hunting hours for the 2010-2011 hunting year to reflect the annual change in days and subsequent hunting times. The Commission also amended § 141.4 to extend open hunting hours to 1/2 hour after sunset during the later portion of the spring gobbler season.

Section 322(c)(1) of the code (relating to powers and duties of commission) specifically empowers the Commission to "fix seasons, daily shooting or taking hours, and any modification thereof, and daily, season and possession limits for any species of game or wildlife." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt

or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to Appendix G and § 141.4 were adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amends Appendix G to update the tables of hunting hours for the 2010-2011 hunting year to reflect the annual change in days and subsequent hunting times. The final-form rulemaking also amends § 141.4 to extend open hunting hours to 1/2 hour after sunset during the later portion of the spring gobbler season.

3. *Persons Affected*

Persons wishing to hunt or trap within this Commonwealth during the 2010-2011 hunting year will be affected by the final-form rulemaking.

4. *Comment and Response Summary*

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

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

The final-form rulemaking will be effective upon 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.

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.

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by amending § 141.4 and Appendix G 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 48-303 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter A. GENERAL

§ 141.4. Hunting hours.

Except as otherwise provided, wild birds and animals may be hunted 1/2 hour before sunrise to 1/2 hour after sunset.

(1) During the regular antlered and antlerless deer seasons, it is unlawful to take or attempt to take other wild birds or mammals except game birds on regulated hunting grounds, migratory waterfowl, coyotes and bear. Coyotes may be hunted from the first day to the last day inclusive of any deer or bear season only by persons who possess a valid furtaker's license, or by persons lawfully engaged in hunting deer or bear who have a valid tag.

(2) Raccoon, fox, skunk, opossum, coyote, bobcat and weasel may be hunted any hour, day or night, except during restricted periods in paragraph (1), and woodchuck, opossum, skunk and weasel may not be hunted during legal hunting hours of the spring gobbler season.

(3) Turkey may be hunted 1/2 hour before sunrise to 12 noon from the opening day of the spring gobbler season through the third Saturday and for the remainder of the season from 1/2 hour before sunrise to 1/2 hour after sunset.

(4) Mourning doves may be hunted from 12 noon to sunset from the first season opening date through the first season closing date.

(5) Migratory birds may only be hunted 1/2 hour before sunrise until sunset, except during the snow goose conservation season and the September resident goose season, when geese may be hunted 1/2 hour before sunrise until 1/2 hour after sunset.

APPENDIX G

**HUNTING HOURS TABLE FOR
JUNE 27, 2010 THROUGH JULY 2, 2011**

<i>Dates</i>	<i>Begin A.M.</i>	<i>End P.M.</i>
June 27—July 3	5:07	9:03
July 4—10	5:11	9:01
July 11—17	5:16	8:57
July 18—24	5:22	8:52
July 25—31	5:28	8:45
Aug. 1—7	5:35	8:37
Aug. 8—14	5:42	8:29
Aug. 15—21	5:52	8:19
Aug. 21—28	5:55	8:08
Aug. 29—Sept. 4	6:01	7:57
Sept. 5—11	6:08	7:46
Sept. 12—18	6:14	7:34
Sept. 19—25	6:21	7:23
Sept. 28—Oct. 2	6:28	7:11
Oct. 3—9	6:35	7:00
Oct. 10—16	6:42	6:50
Oct. 17—23	6:50	6:40
Oct. 24—30	6:57	6:31
Oct. 31—Nov. 6	6:05	5:23
Nov. 7—13*ends	6:13	5:14
Nov. 14—20	6:21	5:09
Nov. 21—27	6:29	5:07
Nov. 28—Dec. 4	6:36	5:06
Dec. 5—11	6:42	5:06
Dec. 12—18	6:47	5:07
Dec. 19—25	6:49	5:09
Dec. 26—Jan. 1	6:52	5:12
Jan. 2—8	6:52	5:17
Jan. 9—15	6:52	5:23
Jan. 16—22	6:50	5:33
Jan. 23—29	6:46	5:39
Jan. 30—Feb. 5	6:41	5:47
Feb. 6—12	6:34	5:56
Feb. 13—19	6:26	6:04
Feb. 20—26	6:17	6:08
Feb. 27—Mar. 5	6:07	6:20
Mar. 6—12	6:58	7:28
Mar. 13—19*begins	6:46	7:35
Mar. 20—26	6:34	7:42
Mar. 27—Apr. 2	6:23	7:50
Apr. 3—9	6:12	7:57
Apr. 10—16	6:01	8:04
Apr. 17—23	5:50	8:09
Apr. 24—30	5:40	8:18
May 1—7	5:30	8:25

<i>Dates</i>	<i>Begin A.M.</i>	<i>End P.M.</i>
May 8—14	5:25	8:32
May 15—21	5:15	8:39
May 22—28	5:10	8:45
May 29—June 4	5:05	8:51
June 5—11	5:03	8:56
June 12—18	5:02	9:00
June 19—25	5:03	9:03
June 26—July 2	5:06	9:03

*Daylight Saving Time

MIGRATORY GAME BIRD HUNTING HOURS TABLE

<i>Dates</i>	<i>Begin A.M.</i>	<i>End P.M.</i>
Aug. 29—Sept. 4	6:01	7:27
Sept. 5—11	6:08	7:16
Sept. 12—18	6:14	7:04
Sept. 19—25	6:21	6:53
Sept. 26—Oct. 2	6:28	6:41
Oct. 3—9	6:35	6:30
Oct. 10—16	6:42	6:20
Oct. 17—23	6:50	6:10
Oct. 24—30	6:57	6:01
Oct. 31—Nov. 6	6:05	4:53
Nov. 7—13*ends	6:13	4:44
Nov. 14—20	6:21	4:39
Nov. 21—27	6:29	4:37
Nov. 28—Dec. 4	6:36	4:36
Dec. 5—11	6:42	4:36
Dec. 12—18	6:47	4:37
Dec. 19—25	6:49	4:39
Dec. 26—Jan. 1	6:52	4:42
Jan. 2—8	6:52	4:47
Jan. 9—15	6:52	4:53
Jan. 16—22	6:50	5:03
Jan. 23—29	6:46	5:09
Jan. 30—Feb. 5	6:41	5:17
Feb. 6—12	6:34	5:26
Feb. 13—19	6:26	5:34
Feb. 20—26	6:17	5:38
Feb. 27—Mar. 5	6:07	5:50
Mar. 6—12	6:58	6:58
Mar. 13—19*begins	6:46	7:05
Mar. 20—26	6:34	7:12
Mar. 27—Apr. 2	6:23	7:20
Apr. 3—9	6:12	7:27
Apr. 10—16	6:01	7:34

*Daylight Saving Time

[Pa.B. Doc. No. 10-1075. Filed for public inspection June 11, 2010, 9:00 a.m.]

GAME COMMISSION
[58 PA. CODE CH. 141]
Hunting and Trapping

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 20, 2010 meeting, amended § 141.62 (relating to beaver trapping) to remove the applicability of the two body gripping traps per trapper limitation to wildlife management unit (WMU) 1B.

The final-form rulemaking will not have an 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 40 Pa.B. 1752 (April 3, 2010).

1. *Purpose and Authority*

WMU 1B has the greatest number of beaver damage complaints in this entire Commonwealth. Beaver damage/nuisance complaints within this unit normally range between 50 and 100 complaints each year. Last year, 23% of beaver complaints received by the Commission occurred in WMU 1B. Not surprisingly, WMU 1B has had the highest beaver harvest during the past 20 years than any other unit. Furthermore, there is strong evidence that beaver populations in WMU 1B have grown to the point where they are no longer in balance with their habitat. Nonpreferred foods are being utilized and it appears that all suitable beaver range is occupied. The daily and season limits of 20 and 40 for beavers are rarely reached by trappers in this WMU. As a consequence of these findings, the Commission determined that a long-term increase in the beaver harvest is needed within WMU 1B. The Commission amended § 141.62 to remove the applicability of the two body gripping traps per trapper limitation to WMU 1B. Increasing the number of body gripping traps for each trapper should greatly improve beaver trapping efficiency and success, thus measurably increasing harvest.

Section 2102(b)(1) of the code (relating to regulations) authorizes the Commission to “promulgate regulations relating to seasons and bag limits for hunting or furtaking, the possession of certain species or parts thereof, the number and types of devices and equipment allowed, the identification of devices and the use and possession of devices.” Section 2102(d) of the code authorizes the Commission to “promulgate regulations stipulating the size and type of traps, the type of firearms and ammunition and other devices which may be used, the manner in which and the location where the devices may be used, the species the devices may be used for and the season when the devices may be used.” Section 2102(a) of the code provides that “The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth.” The amendments to § 141.62 were adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking amends § 141.62 to remove the applicability of the two body gripping traps per trapper limitation to WMU 1B.

3. Persons Affected

Persons wishing to trap beaver within WMU 1B may be affected by the final-form rulemaking.

4. Comment and Response Summary

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

5. Cost and Paperwork Requirements

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

6. Effective Date

The final-form rulemaking will be effective upon 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.

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.

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by amending § 141.62 to read as set forth at 40 Pa.B. 1752.

(b) The Executive Director of the Commission shall certify this order and 40 Pa.B. 1752 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 48-300 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 10-1076. Filed for public inspection June 11, 2010, 9:00 a.m.]

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GAME COMMISSION
[58 PA. CODE CH. 141]
Hunting and Trapping

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at

its April 20, 2010, meeting, amended § 141.66 (relating to cable restraints) to establish December 26 as the opening date for the usage of cable restraints.

The final-form rulemaking will not have an 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 40 Pa.B. 1753 (April 3, 2010).

1. Purpose and Authority

Based upon comments from the cable restraint users' survey conducted by the Commission, as well as input from the Pennsylvania Trappers Association, it is clear that trappers are interested in using cable restraint devices earlier in the traditional trapping season. The Commission determined that opening the cable restraint season 6 days earlier on the day after Christmas will provide a small amount of additional opportunity without significantly impacting other user groups and their hunting opportunities. The Commission amended § 141.66 to establish December 26 as the opening date for the usage of cable restraints.

Section 2102(b)(1) of the code (relating to regulations) authorizes the Commission to "promulgate regulations relating to seasons and bag limits for hunting or furtaking, the possession of certain species or parts thereof, the number and types of devices and equipment allowed, the identification of devices and the use and possession of devices." Section 2102(d) of the code authorizes the Commission to "promulgate regulations stipulating the size and type of traps, the type of firearms and ammunition and other devices which may be used, the manner in which and the location where the devices may be used, the species the devices may be used for and the season when the devices may be used." Section 2102(a) of the code provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to § 141.66 were adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking amended § 141.66 to establish December 26 as the opening date for the usage of cable restraints.

3. Persons Affected

Persons wishing to trap red fox, gray fox or coyote with a cable restraint within this Commonwealth may be affected by the final-form rulemaking.

4. Comment and Response Summary

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

5. Cost and Paperwork Requirements

The final-form rulemaking should not result in 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 rule-making, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

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.

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by amending § 141.66 to read as set forth at 40 Pa.B. 1753.

(b) The Executive Director of the Commission shall certify this order and 40 Pa.B. 1753 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 48-301 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 10-1077. Filed for public inspection June 11, 2010, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CHS. 141 AND 143]

Hunting and Trapping and Hunting and Furtaker Licenses

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 20, 2010, meeting, amended §§ 141.48 and 143.206 (relating to elk management area and elk hunt zones; and validity of license) to define important geographical terms and authorize the use of unfilled elk licenses to be used to harvest elk anywhere within this Commonwealth outside of the elk management area during any extended elk season following the regular elk season.

The final-form rulemaking will not have an 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 40 Pa.B. 1754 (April 3, 2010).

1. *Purpose and Authority*

Work is ongoing to update and implement the Commission's elk management plan. A somewhat confusing aspect of elk management policy for Commission staff and the

public has been references to terms such as "elk range," "elk management area," "elk hunt zones" and other places in this Commonwealth where elk may become established on the landscape. Clarification is being incorporated into the elk management plan and supporting, complimentary regulations are needed to implement the plan's goals and objectives including how hunters and hunting will be used in the management of elk both in and outside the recognized elk management area. To this end, the Commission amended §§ 141.48 and 143.206 to define important geographical terms and authorize the use of unfilled elk licenses to be used to harvest elk anywhere within this Commonwealth outside of the elk management area during any extended elk season following the regular elk season.

Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to §§ 141.48 and 143.206 were adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amends §§ 141.48 and 143.206 to define important geographical terms and authorize the use of unfilled elk licenses to be used to harvest elk anywhere within this Commonwealth outside of the elk management area during any extended elk season following the regular elk season.

3. *Persons Affected*

Persons wishing to hunt elk within this Commonwealth may be affected by the final-form rulemaking.

4. *Comment and Response Summary*

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

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

The final-form rulemaking will be effective upon 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 rule-making, contact Richard R. Palmer, Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

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.

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 141 and 143, are amended by amending §§ 141.48 and 143.206 to read as set forth at 40 Pa.B. 1754.

(b) The Executive Director of the Commission shall certify this order and 40 Pa.B. 1754 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 48-299 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 10-1078. Filed for public inspection June 11, 2010, 9:00 a.m.]

GAME COMMISSION
[58 PA. CODE CH. 143]
Hunting and Furtaker Licenses

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 20, 2010, meeting, amended § 143.45 (relating to completing and submitting applications) to authorize county treasurers to begin selling antlerless licenses over the counter on the first Monday in October.

The final-form rulemaking will not have an 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 40 Pa.B. 1749 (April 3, 2010).

1. *Purpose and Authority*

Commission staff recently met with the County Treasurer's Association (Association) to discuss outcomes and concerns regarding the first year of antlerless deer license issuance through the Pennsylvania Automated Licensing System. The Association suggested that a change be made to the regulation to help it process applications more efficiently. The Association asked that Statewide over-the-counter sales begin earlier so that hunters will not have to apply by mail. The Commission amended § 143.45 to authorize county treasurers begin selling antlerless licenses over-the-counter on the first Monday in October.

Section 2722(g) of the code (relating to authorized license-issuing agents) directs the Commission to adopt regulations for the administration, control and performance of license issuing activities. Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who

hunt or take game or wildlife in this Commonwealth." The amendment to § 143.45 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amends § 143.45 to authorize county treasurers to begin selling antlerless licenses over-the-counter on the first Monday in October.

3. *Persons Affected*

Persons wishing to apply for antlerless deer licenses from county treasurers over-the-counter within this Commonwealth may be affected by the final-form rulemaking.

4. *Comment and Response Summary*

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

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

The final-form rulemaking will be effective upon 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.

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.

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 143, are amended by amending § 143.45 to read as set forth at 40 Pa.B. 1749.

(b) The Executive Director of the Commission shall certify this order and 40 Pa.B. 1749 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 48-305 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 10-1079. Filed for public inspection June 11, 2010, 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), at its April 20, 2010, meeting, amended § 147.701 (relating to general) to update and implement the restructured permitting process for bobcats and fishers.

The final-form rulemaking will not have an 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 40 Pa.B. 1761 (April 3, 2010).

1. Purpose and Authority

During the fall of 2001, the Commission reopened hunting/trapping season on bobcats after many years of closure. Ever since this initial season, the Commission has continued to regulate the harvest of bobcats by limiting the allocation of available permits to hunt or trap them. Simply put, less permits allocated results in less bobcats being harvested. As the years have passed, the Commission has recognized a significant increase in bobcat population indices. The Commission determined that it can effectively manage harvest by season length instead and increase bobcat hunting/trapping participation opportunity at the same time. Despite the availability of an unlimited number of permits, the Commission determined that it is prudent to retain the bobcat permitting system to continue to assess interest, participation, effort and harvest during a bobcat taking season. Drafting off of this new bobcat "season length" harvest management model, the Commission also created new limited opportunities to trap fishers within this Commonwealth due to rebounding fisher populations in certain areas of this Commonwealth. Although an unlimited number of permits will be available to trappers interested in participating in this brand new season, season length will be used to manage harvest. The Commission amended § 147.701 to update and implement the restructured permitting process for bobcats and fishers.

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 § 147.701 were adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking amends § 147.701 to update and implement the restructured permitting process for bobcats and fishers.

3. Persons Affected

Persons wishing to hunt or trap bobcats or fishers within this Commonwealth may be affected by the final-form rulemaking.

4. Comment and Response Summary

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

5. Cost and Paperwork Requirements

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

6. Effective Date

The final-form rulemaking will be effective upon 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.

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.

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 147, are amended by amending § 147.701 to read as set forth at 40 Pa.B. 1761.

(b) The Executive Director of the Commission shall certify this order and 40 Pa.B. 1761 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 48-302 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 10-1080. Filed for public inspection June 11, 2010, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD
[58 PA. CODE CHS. 523, 529, 535 AND 561]
Table Game Equipment, Licensing and Rules
Amendments; Temporary Regulations

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1303A (relating to temporary table game regulations) enacted by the act of January 7, 2010 (P. L. 1, No. 1) (Act 1) and the specific authority in 4 Pa.C.S. §§ 1302A(1), (2) and (5), and 1317.1 (relating to regulatory authority; and manufacturer licenses), amends temporary regulations in Chapters 523, 529, 535 and 561 (relating to table game equipment; general licensing requirements; Pai Gow; and Pai Gow Poker) to read as set forth in Annex A. The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board) as part of Subpart K (relating to table games).

Purpose of the Temporary Rulemaking

This temporary rulemaking amends the rules for table game equipment and licensing requirements and the rules for the games of Pai Gow and Pai Gow Poker to provide additional clarity and operating flexibility for certificate holders and manufacturers, manufacturer designees and suppliers.

Explanation of Chapters 523, 529, 535 and 561

In § 523.1 (relating to definitions), a definition of “RFID chip” has been added.

In § 523.8(a) (relating to additional sets of gaming chips), the Board added language to clarify that a certificate holder may use a different shade of a primary color on its back-up value chips. This will make it easier to distinguish the back-up chips from the value chips in the primary set. Subsection (b) has also been amended to make it clear that a certificate holder is only required to have one set of reserve nonvalue chips, regardless of how many Roulette tables are on the gaming floor.

Additionally, subsection (h) has been added which will allow certificate holders an opportunity to file a waiver request to not have to have back-up value or nonvalue chips if their primary chips are radio-frequency (RFID) chips. Because it is much more difficult to counterfeit RFID chips, depending on how the technology is deployed, it may reduce or eliminate the need for the back-up sets of chips.

Section 523.13(o) (relating to dice; receipt, storage, inspections and removal from use) has been amended by replacing “and” with “or” to make it clear that the certificate holder may either cancel used dice by drilling a hole in them or destroy the used dice by shredding them; they do not need to do both.

Section 529.1(b)(2) (relating to table games devices—conditional licenses) has been amended to allow entities that are currently certified gaming service providers to apply for a conditional manufacturer’s, manufacturer’s designee or supplier’s license so that they may continue to provide equipment and services in this Commonwealth. Act 1 expanded the definition of “associated equipment” so that some entities that are currently certified gaming service providers will now have to obtain a license. Allowing these entities to apply for a conditional license will minimize disruption in their ability to continue to provide goods and services to certificate holders.

In §§ 535.2 and 561.2 (relating to Pai Gow table; Pai Gow shaker; physical characteristics; and Pai Gow Poker table; Pai Gow Poker shaker; physical characteristics), the provisions requiring the numbering of player positions have been amended to allow more flexibility as to how the positions are numbered. This will allow certificate holders to option of not using numbers that are thought to be unlucky.

Affected Parties

The amendments in this temporary rulemaking will affect how certificate holders may conduct table games at their licensed facilities. It will also allow certified gaming service providers, who will now be regulated as manufacturers, manufacturer designees or suppliers, to apply for a conditional manufacturer’s license so that they may continue to provide equipment and services in this Commonwealth.

*Fiscal Impact**Commonwealth*

The Board does not expect that the amendments in this temporary rulemaking will have any fiscal impact on the Board or any other Commonwealth agency.

Political subdivisions

This temporary rulemaking will not have direct fiscal impact on political subdivisions of the Commonwealth. Eventually, host municipalities and counties will benefit from the local share funding that is mandated by Act 1.

Private sector

The amendments in this temporary rulemaking will give certificate holders some additional flexibility as to what equipment they may use. This may result in some cost savings but these savings are not expected to be significant.

Currently certified gaming service providers who are now required to be licensed as a manufacturer, manufacturer designee or supplier will be able to apply for a conditional license which will allow them to continue to provide equipment and services to certificate holders.

General public

This temporary rulemaking will have no direct fiscal impact on the general public.

Paperwork Requirements

A certificate holder who wants to use RFID chips and not have the back-up sets of chips required under § 523.8(a) or (b) will have to file a waiver request using the normal petition process.

Effective Date

This temporary rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Public Comments

While this temporary rulemaking will be effective upon publication, the Board is seeking comments from the public and affected parties as to how the temporary regulations might be improved. Interested persons are invited to submit written comments, suggestions or objections regarding this temporary rulemaking within 30 days after the date of publication in the *Pennsylvania Bulletin* to Richard Sandusky, Director of Regulatory Review, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-122.

Contact Person

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

Regulatory Review

Under 4 Pa.C.S. § 1303A, the Board is authorized to adopt temporary regulations which are not subject to the provisions of sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL), the Regulatory Review Act (71 P. S. §§ 745.1—745.12); and sections 204(b) and 301(10) of the Commonwealth Attorneys Act (71 P. S. §§ 732-204(b) and 732-301(10)). These temporary regulations expire 2 years after publication in the *Pennsylvania Bulletin*.

Findings

The Board finds that:

(1) Under 4 Pa.C.S. § 1303A, the temporary regulations are exempt from the requirements of the Regulatory Review Act, sections 201—205 of the CDL and sections 204(b) and 301(10) of the Commonwealth Attorney’s Act.

(2) The adoption of the temporary regulations 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:

(1) The regulations of the Board, 58 Pa. Code Chapters 523, 529, 535 and 561, are amended by amending §§ 523.1, 523.8, 523.13, 529.1, 535.2 and 561.2 to read as set forth in Annex A.

(2) The temporary regulations are effective June 12, 2010.

(3) The temporary regulations will be posted on the Board’s web site and published in the *Pennsylvania Bulletin*.

(4) The temporary regulations shall be subject to amendment as deemed necessary by the Board.

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

GREGORY C. FAJT,
Chairperson

Fiscal Note: 125-122. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart K. TABLE GAMES

CHAPTER 523. TABLE GAME EQUIPMENT

§ 523.1. Definitions.

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

Chip runner—An employee of a certificate holder whose job duties include transporting cash to the Poker room cage or the Poker cashier window at the main cage for dealers or patrons of the Poker room to be exchanged for value chips.

Edge—The surface of a gaming chip across which its thickness can be measured in a perpendicular line from one face to the other.

Edge spot—An identifying characteristic used on the edge of each value chip issued by a certificate holder.

Face—Each of the two surfaces of a gaming chip across which the diameter of the gaming chip can be measured.

Nonvalue chip—A gaming chip which does not contain a denomination on either face which is used for wagering at the game of Roulette.

Primary color—The predominant color used on a value chip.

RFID chip—A value or nonvalue chip which contains a radio-frequency identification tag which can be used to determine the authenticity of the chip.

Secondary color—Any color, other than that value chip’s primary color, on the face or edge of the value chip that is used as a contrast to the value chip’s primary color.

Tournament chip—A gaming chip used for wagering in a table game tournament or Poker tournament.

Value chip—A gaming chip which contains a denomination on each face.

§ 523.8. Additional sets of gaming chips.

(a) Within 120 days of the commencement of table games at a licensed facility, the certificate holder shall also have at least one approved set of value gaming chips that may be used as a back-up for the \$25, \$100 and \$500 value gaming chips in active use. Each back-up set of value chips maintained for use by a certificate holder must have secondary colors that are different from the secondary colors of the value chips in active use and may use a different shade of the primary color. All back-up sets of value chips must conform to the color and design requirements in this chapter.

(b) Each certificate holder shall have at least one reserve set of nonvalue chips for each color utilized in the licensed facility with a design insert or symbol different from the nonvalue chips comprising the primary sets. All back-up sets of nonvalue chips must conform to the color and design requirements contained in this chapter.

(c) A certificate holder shall notify the Bureau of Gaming Operations within 24 hours of the discovery of counterfeit chips.

(d) The certificate holder shall remove a set of gaming chips in use from active play whenever:

(1) It is believed the licensed facility is taking on multiple counterfeit chips valued at \$25 or more.

(2) Any other impropriety or defect in the utilization of a set of chips makes removal of the chips in active use necessary.

(3) The Board or its Executive Director directs that a set of chips be removed from active use.

(e) An approved back-up set of value chips or a reserve set of nonvalue chips shall be placed into active play whenever an active set is removed.

(f) Whenever a set of chips in active use is removed from play, the certificate holder shall immediately notify the Bureau of Gaming Operations of the removal and the reasons for the removal.

(g) Each set of gaming chips that the Bureau of Gaming Operations approves for use by a certificate holder shall receive a unique and permanent alphabetical designation. This designation shall be assigned by the certificate holder during the design schematic approval process and be used for all inventory procedures required under § 523.11 (relating to receipt of gaming chips or plaques from a manufacturer or supplier; inventory, security, storage and destruction of chips and plaques).

(h) If a certificate holder uses RFID chips for its value or nonvalue chips, the certificate holder may request that the Board waive the requirements in subsection (a) or (b) by filing a petition in accordance with § 493a.4 (related to petitions generally). The petition, at a minimum, must include:

(1) A detailed description of the RFID technology and devices that will be used at the licensed facility.

(2) A detailed description of how the RFID chips and related equipment will be used in the licensed facility.

(3) A detailed explanation of how the use of the RFID chips and related equipment will reduce or eliminate the potential use of counterfeit gaming chips.

§ 523.13. Dice; receipt, storage, inspections and removal from use.

(a) When dice for use in a licensed facility are received from a manufacturer or supplier, the dice shall, immediately following receipt, be unloaded under the supervision of at least two people, one of whom shall be an assistant table games shift manager or above and one employee from the security department, and transported to a secure area which is covered by the slot machine licensee's surveillance system. The boxes of dice shall then be inspected by an assistant table games shift manager or above and one employee from the security department to assure that the seals on each box are intact, unbroken and free from tampering. Boxes that do not satisfy these criteria shall be inspected at this time to assure that the dice contained therein conform to the requirements of this chapter and there is no evidence of tampering. Boxes satisfying these criteria, together with boxes having unbroken, intact and untampered seals shall then be placed for storage in a storage area, the location and physical characteristics of which shall be approved by the Bureau of Gaming Operations.

(b) Dice which are to be distributed to gaming pits or tables for use in gaming shall be distributed from the approved storage area.

(c) The approved storage area must have two separate locks. The security department shall maintain one key and the table games department shall maintain the other key. No person employed by the table games department below an assistant table games shift manager in the organization hierarchy may have access to the table games department key.

(d) Immediately prior to the commencement of each gaming day and at other times as may be necessary, an assistant table games shift manager or above, in the presence of a security department employee, shall remove the appropriate number of dice for that gaming day from the approved storage area.

(e) Envelopes and containers used in this section for dice preinspected at the pit stand or in the approved storage area and for those collected by the security department must be transparent.

(1) The envelopes or containers and the method used to seal them shall be designed or constructed so that any tampering is evident.

(2) The envelopes or containers and seals used shall be approved by the Bureau of Gaming Operations.

(f) Dice shall be inspected and distributed to the gaming tables in accordance with one of the following applicable alternatives:

(1) *Alternative No. 1.*

(i) The assistant table games shift manager or above and the security department employee who removed the dice from the approved storage area shall distribute sufficient dice directly to the pit manager or above in each pit, or place them in a locked compartment in the pit stand, the keys to which shall be in the possession of the pit manager or above.

(ii) Immediately upon opening a table for gaming, the pit manager or above shall distribute a set of dice to the table. At the time of receipt, a boxperson at each Craps table and the floorperson at each Pai Gow, Sic Bo or

Mini-Craps table, in order to ensure that the dice are in a condition to assure fair play and otherwise conform to the requirements of this chapter, shall, in the presence of the dealer, inspect the dice given to him with a micrometer or other instrument approved by the Bureau of Gaming Operations which performs the same function, a balancing caliper, a steel set square and a magnet. These instruments shall be kept in a compartment at each Craps table or pit stand and shall be at all times readily available for use by the casino compliance representatives or other Board employees upon request. The inspection shall be performed on a flat surface which allows the dice inspection to be observed through the slot machine licensee's surveillance system and by any person in the immediate vicinity of the table.

(iii) Following the inspection required by subparagraph (ii):

(A) For Craps, the boxperson shall, in the presence of a dealer, place the dice in a cup on the table for use in gaming.

(B) For Mini-Craps, the floorperson shall, in the presence of a dealer, place the dice in a cup on the table for use in gaming.

(C) For Sic Bo, the floorperson shall, in the presence of the dealer, place the required number of dice into the shaker and seal or lock the shaker. The floorperson shall then secure the Sic Bo shaker to the table in the presence of the dealer who observed the inspection.

(D) For Pai Gow, the floorperson shall, in the presence of the dealer, place the dice in the Pai Gow shaker.

(iv) The pit manager or above shall place extra dice for the dice reserve in the pit stand. Dice in the pit stand shall be placed in a locked compartment, the keys to which shall be in the possession of the pit manager or above. No dice taken from the pit stand reserve may be used for actual gaming until the dice have been inspected in accordance with subparagraph (ii).

(2) *Alternative No. 2.*

(i) The assistant table games shift manager or above and the security department employee who removed the dice from the approved storage area shall distribute the dice directly to the following certificate holder's employees who will perform the inspection in each pit:

(A) For Craps and Mini-Craps, a boxperson or floorperson in the presence of another boxperson or floorperson, both of whom are assigned the responsibility of supervising the operation and conduct of a Craps or Mini-Craps game.

(B) For Sic Bo and Pai Gow, a floorperson, in the presence of another floorperson, both of whom are assigned the responsibility of supervising the operation and conduct of Sic Bo or Pai Gow games.

(C) For storage of the dice for the dice reserve in the pit stand, to the pit manager or above.

(ii) To ensure that the dice are in a condition to assure fair play and otherwise conform to the requirements of this chapter, the dice shall be inspected by one of the individuals listed in subparagraph (i)(A) or (B) with a micrometer or other instrument approved by the Bureau of Gaming Operations which performs the same function, a balancing caliper, a steel set square and a magnet. These instruments shall be kept at the pit stand and shall be at all times readily available for use by the casino compliance representatives or other Board employees upon request. The inspection shall be performed on a

flat surface which allows the dice inspection to be observed through the slot machine licensee's surveillance system and by any persons in the immediate vicinity of the pit stand.

(iii) After completion of the inspection, the dice shall be distributed as follows:

(A) For Craps and Mini-Craps, the boxperson or floorperson who inspected the dice shall, in the presence of the other boxperson or floorperson who observed the inspection, distribute the dice to the boxperson assigned at each Craps table or to the floorperson assigned at each Mini-Craps table. The Craps boxperson or the Mini-Craps floorperson shall, in the presence of the dealer, place the dice in a cup on the table for use in gaming.

(B) For Sic Bo, the floorperson who inspected the dice shall, in the presence of the other floorperson who observed the inspection, place the required number of dice into the shaker and seal or lock the shaker. The floorperson shall then secure the Sic Bo shaker to the table in the presence of the other floorperson who observed the inspection.

(C) For Pai Gow, the floorperson who inspected the dice shall, in the presence of the other floorperson who observed the inspection, distribute the dice directly to the dealer at each Pai Gow table. The dealer shall immediately place the dice in the Pai Gow shaker.

(iv) The pit manager or above shall place extra sets of dice for the dice reserve in the pit stand, as follows:

(A) Dice in the pit stand shall be placed in a locked compartment, the keys to which shall be in the possession of the pit manager or above.

(B) Except as otherwise provided in subparagraph (v), dice taken from the reserve in the pit stand shall be reinspected by a floorperson or above in the presence of another floorperson or above in accordance with the inspection procedures in subparagraph (ii), prior to their use for actual gaming.

(v) Previously inspected reserve dice may be used for gaming without being reinspected if the dice are maintained in a locked compartment in the pit stand in accordance with the following procedures:

(A) For Craps and Mini-Craps, a set of five dice, after being inspected, shall be placed in a sealed envelope or container. A label that identifies the date of inspection and contains the signatures of those responsible for the inspection shall be attached to the envelope or container.

(B) For Sic Bo, three dice, after being inspected, shall be placed in a sealed envelope or container or sealed or locked in a Sic Bo shaker. A label or seal that identifies the date of inspection and contains the signatures of those responsible for the inspection shall, respectively, be attached to each envelope or container or placed over the area that allows access to open the Sic Bo shaker.

(C) For Pai Gow, a set of three dice, after being inspected, shall be placed in a sealed envelope or container. A label that identifies the date of inspection and contains the signatures of those responsible for the inspection shall be attached to each envelope or container.

(3) *Alternative No. 3.*

(i) The inspection of dice for all table games shall take place in the approved storage area, in the presence of a floorperson or above, the assistant table games shift manager or above and a security department employee.

(ii) Prior to starting the inspection of the dice, notice shall be provided to the certificate holder's surveillance department.

(iii) The dice shall be inspected by the floorperson or above, the assistant table games shift manager or above or both of these individuals, with a micrometer or any other instrument approved by the Bureau of Gaming Operations which performs the same function, a balancing caliper, a steel set square and a magnet to ensure that the dice are in a condition to assure fair play and otherwise conform to the act and this part. These instruments shall be maintained in the approved storage area and shall be at all times readily available for use by the casino compliance representatives or other Board employees upon request.

(iv) After completion of the inspection, the persons performing the inspection shall seal the dice as follows:

(A) For Craps and Mini-Craps, after each set of five dice are inspected, the dice shall be placed in a sealed envelope or container. A label that identifies the date of the inspection and contains the signatures of those responsible for the inspection shall be attached to each envelope or container.

(B) For Sic Bo, after each set of dice are inspected, three dice shall be sealed or locked in a manual shaker. A seal that identifies the date of the inspection and contains the signatures of those responsible for the inspection shall then be placed over the area that allows access to open the shaker.

(C) For Pai Gow, after each set of three dice are inspected, the dice shall be placed in a sealed envelope, container or shaker. A label that identifies the date of the inspection and contains the signatures of those responsible for the inspection shall be attached to each envelope, container or shaker.

(D) Reserve dice may be placed in individual sealed envelopes or containers. A label that identifies the date of the inspection and contains the signatures of those responsible for the inspection shall be attached to each envelope or container.

(v) At the beginning of each gaming day and at other times as may be necessary, an assistant table games shift manager or above and a security department employee shall distribute the dice as follows:

(A) For Craps and Mini-Craps, the sealed envelopes or containers of dice shall be distributed to a pit manager or above in each Craps or Mini-Craps pit or placed in a locked compartment in the pit stand by an assistant table games shift manager or above. When the sealed dice are distributed to a Craps or Mini-Craps table, a boxperson at a Craps table or a floorperson at a Mini-Craps table, after assuring the seals are intact and free from tampering, shall open the sealed envelope or container, in the presence of a dealer, and place the dice in a cup on the table for use in gaming.

(B) For Sic Bo, the sealed manual shakers shall be distributed to the pit manager or above supervising the game or placed in a locked compartment in the pit stand. The pit manager or above, after assuring the seal on the shaker is intact and free from tampering shall then secure the manual Sic Bo shaker to the table in a manner approved by the Bureau of Gaming Operations.

(C) For Pai Gow, the sealed envelope or container shall be distributed to a pit manager or above in a Pai Gow pit or placed in a locked compartment in the pit stand. When the sealed dice are distributed to the Pai Gow table by

the pit manager or above, a floorperson, after assuring the seal and envelopes or containers are intact and free from tampering, shall open the sealed envelope or container, in the presence of the dealer, and place the dice in the Pai Gow shaker.

(vi) When an envelope or container or seal is damaged, broken or shows indication of tampering, the dice in the envelope, container or shaker may not be used for gaming activity unless the dice are reinspected in accordance with paragraph (1) or (2).

(vii) The pit manager or above shall place extra dice for the dice reserve in the pit stand. Dice in the pit stand shall be placed in a locked compartment, keys to which shall be in the possession of the pit manager or above.

(viii) A micrometer or another instrument approved by the Bureau of Gaming Operations which performs the same function, a balancing caliper, a steel set square and a magnet shall also be maintained in a locked compartment in each pit stand. These instruments shall be at all times readily available for use by the casino compliance representatives or other Board employees upon request.

(ix) The inspection of dice in the approved storage area in accordance with this alternative shall be performed on a flat surface which allows the dice inspection to be observed through the slot machine licensee's surveillance system.

(g) A certificate holder shall remove any dice at any time of the gaming day and file a Dice Discrepancy Report as required under subsection (h) if there is any indication of tampering, flaws or other defects that might affect the integrity or fairness of the game, or at the request of a casino compliance representative.

(h) At the end of each gaming day or at other times as may be necessary, a floorperson or above, other than the individual who originally inspected the dice, shall visually inspect each die that was used for play for evidence of tampering. Evidence of tampering discovered at this time or at any other time shall be immediately reported to the casino compliance representatives by the completion and delivery of a two-part Dice Discrepancy Report and the dice.

(1) Dice showing evidence of tampering shall be placed in a sealed envelope or container.

(i) A label shall be attached to each envelope or container which identifies the table number, date and time the dice were removed and shall be signed by the person assigned to directly operate and conduct the game at that table and the floorperson assigned the responsibility for supervising the operation and conduct of the game.

(ii) A floorperson or above or a security department employee responsible for delivering the dice to the casino compliance representatives shall also sign the label.

(iii) The casino compliance representative receiving the dice shall sign the original and duplicate copy of the Dice Discrepancy Report and retain the original copy. The duplicate copy shall be returned to the pit and maintained in a secure place within the pit until collection by a security department employee.

(2) Other dice that were used for play shall be put into envelopes or containers at the end of the gaming day.

(i) A label shall be attached to each envelope or container which identifies the table number, date and time the dice were removed and shall be signed by the person assigned to directly operate and conduct the game

at that table and the floorperson assigned the responsibility for supervising the operation and conduct of the game.

(ii) The envelope or container shall be appropriately sealed and maintained within the pit until collection by a security department employee.

(i) Reserve dice in the locked compartment in a pit stand at the end of the gaming day may be:

(1) Collected and transported to the security department for cancellation or destruction.

(2) Returned to the approved storage area.

(3) Retained in the locked compartment in the pit stand.

(j) Reserve dice in the locked compartment in a pit stand at the end of the gaming day that are to be destroyed or cancelled shall be placed in a sealed envelope or container, with a label attached to each envelope or container which identifies the pit stand where the reserve dice were being stored, the date and time the dice were placed in the envelope or container and is signed by the pit manager or above.

(k) At the end of each gaming day or, in the alternative, at least once each gaming day at the same time each day, designated by the certificate holder and approved by the Bureau of Gaming Operations, and at other times as may be necessary, a security department employee shall collect and sign all envelopes or containers of used dice and reserve dice that are to be destroyed or cancelled and transport the dice to the security department for cancellation or destruction. The security department employee shall also collect duplicate copies of Dice Discrepancy Reports, if any.

(l) At the end of each gaming day or, in the alternative, at least once each gaming day at the same time each day, as designated by the certificate holder and approved by the Bureau of Gaming Operations, and at other times as may be necessary, an assistant table games shift manager or above may collect all reserve dice in a locked compartment in a pit stand. If collected, reserve dice shall be returned to the approved storage area; provided, however, that dice which have not been inspected and sealed in accordance with subsection (f)(3) shall, prior to use for actual gaming, be inspected in accordance with subsection (f)(1) or (2).

(m) If the reserve dice are not collected, all dice in the dice reserve shall be reinspected in accordance with one of the alternatives in subsection (f) prior to their use for gaming, except for those dice maintained in a locked compartment in accordance with subsection (f)(2)(v) or (3)(iv).

(n) Certificate holders shall submit to the Bureau of Gaming Operations for approval internal control procedures for:

(1) A dice inventory system which includes, at a minimum, records of the following:

(i) The balance of dice on hand.

(ii) The dice removed from storage.

(iii) The dice returned to storage or received from a manufacturer or supplier.

(iv) The date of each transaction.

(v) The signatures of the individuals involved.

(2) A reconciliation on a daily basis of the dice distributed, the dice destroyed and cancelled, the dice returned

to the approved storage area and, if any, the reserve dice in a locked compartment in a pit stand.

(3) A physical inventory of all dice at least once every 3 months.

(i) This inventory shall be performed by an individual with no incompatible functions and be verified to the balance of dice on hand required under paragraph (1)(i).

(ii) Discrepancies shall immediately be reported to the Bureau of Gaming Operations.

(c) Destruction or cancellation of dice, other than those retained for Board inspection, shall be completed within 72 hours of collection.

(1) Cancellation must occur by drilling a circular hole of at least 1/4 inch in diameter through the center of the die.

(2) Destruction must occur by shredding.

(3) The destruction and cancellation of dice must take place in a secure location in the licensed facility covered by the slot machine licensee's surveillance system, the physical characteristics of which shall be approved by the Bureau of Gaming Operations.

CHAPTER 529. GENERAL LICENSING REQUIREMENTS

§ 529.1. Table game devices—conditional licenses.

(a) The Board may grant an applicant for a table game device manufacturer, manufacturer designee or supplier license a conditional license to conduct table game business in this Commonwealth, prior to licensure.

(b) To be eligible to obtain a conditional table game device license, the applicant for a table game device manufacturer, manufacturer designee or supplier license shall:

(1) Submit a completed manufacturer, manufacturer designee or supplier license application.

(2) Be licensed in good standing to manufacture or provide table game devices in another jurisdiction in the United States or Canada that the Board has determined has licensing standards that are comprehensive and thorough and provide similar adequate safeguards as those required by the act or be certified as a gaming service provider in this Commonwealth.

(3) Submit a written statement from a slot machine licensee or applicant, a supplier licensee or a manufacturer designee licensee that the slot machine licensee or applicant, the supplier licensee or the manufacturer designee licensee may do business with the applicant for the purpose of purchasing, selling or marketing table game devices.

(4) Pass a preliminary review of the application and criminal history investigation.

(5) Submit full payment for the table game device manufacturer, manufacturer designee or supplier license prior to the issuance of the conditional license.

(c) An applicant for a table game device manufacturer, manufacturer designee or supplier license that has received a conditional license shall provide monthly transaction reports to the Bureau of Licensing by the 20th calendar day of the following month during the period of conditional licensure. The monthly transaction reports must include:

(1) The date table game devices were provided to an applicant or licensee.

(2) A description of the table game devices provided.

(3) The amount paid by the applicant or licensee for the table game devices.

(4) A copy of the invoice for the table game devices.

(d) If the Office of Enforcement Counsel issues a Notice of Recommendation for Denial to an applicant for a table game device manufacturer, manufacturer designee or supplier license that has received a conditional license, the Bureau of Licensing may rescind the conditional license issued to the applicant. If the conditional license is rescinded, the applicant shall cease conducting business by the date specified in the notice of the rescission sent to the applicant by the Bureau of Licensing under subsection (e).

(e) When the Bureau of Licensing rescinds a conditional license, the Bureau of Licensing will notify the holder of the conditional license and all slot machine licensees or applicants, supplier licensees and manufacturer designee licensees by registered mail that:

(1) Permission for the applicant to conduct business under subsection (a) has been rescinded.

(2) Slot machine licensees or applicants, supplier licensees and manufacturer designee licensees shall cease conducting business with the applicant by the date specified in the notice.

(f) Pending a hearing on the Notice of Recommendation for Denial, the applicant may not seek or conduct any new business in this Commonwealth and may only complete transactions that were commenced prior to the date specified in the notice of rescission.

CHAPTER 535. PAI GOW

§ 535.2. Pai Gow table; Pai Gow shaker; physical characteristics.

(a) Pai Gow shall be played at a table having on one side places for six players and on the opposite side a place for the dealer.

(b) The layout for a Pai Gow table shall be approved by the Bureau of Gaming Operations and contain, at a minimum, the following:

(1) Six separate numbered betting areas for the players at the table.

(2) A separate area, located to the left of the dealer, for the placement of four tiles which shall be referred to as the Dead Hand.

(3) The name or logo of the certificate holder offering the game.

(c) Each Pai Gow table must have a drop box with a tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer, in locations approved by the Bureau of Gaming Operations.

(d) Pai Gow shall be played with a Pai Gow shaker, approved by the Bureau of Gaming Operations, used to shake three dice before each hand of Pai Gow is dealt to determine the starting position for the dealing of the Pai Gow tiles. The Pai Gow shaker shall be designed and constructed to maintain the integrity of the game and, at a minimum, adhere to the following specifications:

(1) The Pai Gow shaker must be capable of housing three dice and be designed to prevent the dice from being seen while being shaken by the dealer.

(2) The Pai Gow shaker must have the name or logo of the certificate holder thereon.

CHAPTER 561. PAI GOW POKER**§ 561.2. Pai Gow Poker table; Pai Gow Poker shaker; physical characteristics.**

(a) Pai Gow Poker shall be played at a table having on one side places for six players and on the opposite side a place for the dealer.

(b) The layout for a Pai Gow Poker table shall be approved by the Bureau of Gaming Operations and contain, at a minimum, the following:

(1) Six separate numbered betting areas for the players at the table.

(2) Two separate areas located below each betting area which shall be designated for the placement of the High and Low hands of that player.

(3) Two separate areas designated for the placement of the High and Low hands of the dealer.

(4) The name or logo of the certificate holder offering the game.

(c) Each Pai Gow Poker table must have a drop box and tip box attached to it on the same side of the gaming table as, but on opposite sides of, the dealer, and in locations approved by the Bureau of Gaming Operations.

(d) Each Pai Gow Poker table must have a discard rack securely attached to the top of the dealer's side of the table in a location approved by the Bureau of Gaming Operations.

(e) Under § 561.8 (relating to Pai Gow Poker shaker and dice; computerized random number generator; button), Pai Gow Poker may be played with a container, to be known as a Pai Gow shaker, which shall be used to shake three dice before each hand of Pai Gow Poker is dealt to determine the starting position for the dealing or delivery of the cards. The Pai Gow shaker shall be designed and constructed to contain any feature the Bureau of Gaming Operations may require to maintain the integrity of the game and must, at a minimum, adhere to the following specifications:

(1) The Pai Gow Poker shaker must be capable of housing three dice and be designed to prevent the dice from being seen while the dealer is shaking it.

(2) The Pai Gow Poker shaker must have the name or identifying logo of the certificate holder imprinted or impressed thereon.

(f) If a certificate holder elects to use a computerized random number generator as permitted under § 561.8, the random number generator shall be approved by the Bureau of Gaming Laboratory Operations prior to its use.

[Pa.B. Doc. No. 10-1081. Filed for public inspection June 11, 2010, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD**[58 PA. CODE CH. 525]****Table Game Internal Controls; Temporary Regulations**

The Pennsylvania Gaming Control Board (Board), under its general authority in 4 Pa.C.S. § 1303A (relating to temporary table game regulations) enacted by the act of January 7, 2010 (Act 1) and the specific authority in 4 Pa.C.S. §§ 1302A(2.1) and (4) and 1325A (relating to regulatory authority; and table game accounting controls

and audit protocols), adopts temporary regulations in Chapter 525 (relating to table game internal controls) to read as set forth in Annex A. The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board) as part of Subpart K (relating to table games).

Purpose of the Temporary Rulemaking

This temporary rulemaking adds additional sections to Chapter 525 regarding drop boxes and the conduct of the drop and count for table games.

Explanation of Chapter 525

Section 525.17 (relating to table game drop boxes), requires that each gaming table have an attached table game drop box. This section also contains the technical standards for drop boxes, labeling requirements for drop boxes and that one of the keys to open the drop box be maintained and controlled by the Board's casino compliance representatives.

Section 525.18 (relating to transport of table game drop boxes to and from gaming tables) contains the procedures that must be followed during the normal drop process. These procedures cover who is involved in the drop, who controls the keys required for the drop and the verification that all drop boxes that are supposed to be dropped have been dropped. This section also sets forth the requirements regarding the use and storage of emergency drop boxes which are used when a drop box must be exchanged outside of the normal drop process.

Section 525.19 (relating to procedures for opening, counting and recording the contents of table game drop boxes) sets forth the requirements and procedures that apply to the count process. This section specifies who may be present in the count room, the procedures for opening the drop boxes and counting and recording the contents of the drop boxes, the role of the Board's casino compliance representatives, the completion of the Daily Table Game Count Report and the process for transferring all cash, gaming vouchers, gaming chips, Poker rake chips and Counter Checks to the main bank.

Section 525.20 (relating to alternate procedures for collecting, distributing, opening, counting and recording the contents of nonbanking table game drop boxes) gives certificate holders the option of establishing separate procedures for the collection, distribution, opening, counting and recording the contents of table game drop boxes attached to Poker tables. This is because these drop boxes will only contain value chips and Poker rake chips, making the count procedures and related reporting requirements much simpler.

Affected Parties

Slot machine licensees who elect to become certificate holders will be required to modify and expand their existing internal controls to meet the additional requirements in this temporary rulemaking.

The Board will experience increased regulatory demands to review the new and revised internal controls regarding table games that are submitted by the certificate holders.

*Fiscal Impact**Commonwealth*

The Board will have to review each certificate holder's initial table games internal control submissions and any subsequent amendments thereto. These reviews will be conducted by existing Bureau of Gaming Operations staff

so the Board does not project that it will incur any significant cost increases as a result of this temporary rulemaking.

Political subdivisions

This temporary rulemaking will not have direct fiscal impact on political subdivisions of this Commonwealth. Eventually, host municipalities and counties will benefit from the local share funding that is mandated by Act 1.

Private sector

This temporary rulemaking will result in additional costs for slot machine licensees who elect to become certificate holders. More specifically, certificate holders will be required to revise and expand the scope of their internal controls to cover table games operations. All of the internal control revisions required by this and other rulemakings related to internal controls could cost between \$20,000 and \$50,000 per certificate holder to prepare depending on the scope of the revisions and if the revisions are prepared internally or by outside consultants.

General public

This temporary rulemaking will have no direct fiscal impact on the general public.

Paperwork Requirements

This temporary rulemaking will require certificate holders to draft, and submit to the Board for its approval, revised internal controls.

Effective Date

This temporary rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Public Comments

While this temporary rulemaking will be effective upon publication, the Board is seeking comments from the public and affected parties as to how this temporary regulation might be improved. Interested persons are invited to submit written comments, suggestions or objections regarding this temporary rulemaking within 30 days after the date of publication in the *Pennsylvania Bulletin* to Richard Sandusky, Director of Regulatory Review, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-121.

Contact Person

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

Regulatory Review

Under 4 Pa.C.S. § 1303A, the Board is authorized to adopt temporary regulations which are not subject to the provisions of sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL), the Regulatory Review Act (71 P. S. §§ 745.1—745.12); and sections 204(b) and 301(10) of the Commonwealth Attorneys Act (71 P. S. §§ 732-204(b) and 732-301(10)). These temporary regulations expire 2 years after publication in the *Pennsylvania Bulletin*.

Findings

The Board finds that:

(1) Under 4 Pa.C.S. § 1303A, the temporary regulations are exempt from the requirements of the Regulatory

Review Act, sections 201—205 of the CDL and sections 204(b) and 301(10) of the Commonwealth Attorney’s Act.

(2) The adoption of the temporary regulations 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:

(1) The regulations of the Board, 58 Pa. Code Chapter 525, are amended by adding §§ 525.17—525.20 to read as set forth in Annex A.

(2) The temporary regulations are effective June 12, 2010.

(3) The temporary regulations will be posted on the Board’s web site and published in the *Pennsylvania Bulletin*.

(4) The temporary regulations shall be subject to amendment as deemed necessary by the Board.

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

GREGORY C. FAJT,
Chairperson

Fiscal Note: 125-121. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart K. TABLE GAMES

CHAPTER 525. TABLE GAME INTERNAL CONTROLS

§ 525.17. Table game drop boxes.

(a) Each gaming table in a licensed facility must have a secure tamper-resistant table game drop box attached to it, in which shall be deposited all cash exchanged at the gaming table for gaming chips and plaques, issuance copies of Counter Checks exchanged at the gaming table for gaming chips and plaques, copies of Fill Request Slips, Fill Slips, Credit Request Slips, and Credit Slips and Table Inventory Slips.

(b) Each table game drop box must have:

(1) Two separate locks securing the contents placed into the table game drop box, the keys to which must be different from each other.

(2) A separate lock securing the table game drop box to the gaming table, the key to which must be different from each of the keys to the locks securing the contents of the table game drop box.

(3) A slot opening through which currency, value chips for nonbanking games, and required forms and documents can be inserted into the table game drop box.

(4) A mechanical device that will automatically close and lock the slot opening upon removal of the table game drop box from the gaming table.

(5) Permanently imprinted or impressed thereon, and clearly visible, either:

(i) A number corresponding to a unique permanent number on the gaming table to which the table game drop box is attached and a letter or letters which indicate the type of game.

(ii) The word “emergency.”

(6) In addition to the information required under paragraph (5)(i), each table game drop box may also be identified by a bar code label that is securely affixed to the table game drop box. Each bar code label affixed to a table game drop box must be:

(i) Encoded, at a minimum, with the information required under paragraph (5)(i).

(ii) Prepared in accordance with a certificate holder's approved internal controls.

(c) The key utilized to unlock the table game drop boxes from the gaming tables shall be maintained and controlled by the security department.

(d) The key to one of the locks securing the contents of a table game drop box shall be maintained and controlled by the finance department. The key to the second lock securing the contents of the table game drop box shall be maintained and controlled by the casino compliance representatives.

(e) Prior to using a table game drop box labeled "Emergency," the certificate holder shall:

(1) Notify and obtain the verbal approval of the casino compliance representatives.

(2) Temporarily mark the emergency table game drop box with the number of the gaming table and a letter or letters which indicate the type of game.

§ 525.18. Transport of table game drop boxes to and from gaming tables.

(a) Each certificate holder shall be required to submit and obtain the approval of the Bureau of Casino Compliance of the plan for the distribution and collection of table game drop boxes which includes the separate distribution and collection of table game drop boxes from table games that are not fully automated electronic gaming tables and from table games that are fully automated electronic gaming tables. The plan must include the time the distribution and collection of the table game drop boxes will begin, the order in which the table game drop boxes will be distributed and collected and the route that will be used to transport the table game drop boxes between the gaming floor and the count room. A table game drop box may not be brought to or removed from any gaming table at a time other than the time specified in this subsection unless prior notice is provided to and verbal approval has been obtained from the casino compliance representatives.

(b) Certificate holders shall maintain and make available to the Board, upon request, a current list, with Board credential numbers, of all employees participating in the transportation of table game drop boxes.

(c) Drop boxes removed from gaming tables shall be transported directly to and secured in the count room by at least one security department employee and one finance department employee.

(d) Upon its removal from a gaming table, a table game drop box shall be immediately placed in an enclosed trolley which is secured by two separately keyed locks. The key to one lock shall be maintained and controlled by the security department. The key to the other lock shall be maintained and controlled by the finance department. Access to the keys shall be controlled, at a minimum, by a sign-in and sign-out procedure contained in the certificate holder's internal controls. The security department key shall be returned to its secure location immediately upon the completion of the collection and transportation of the

drop boxes. The key controlled by the finance department shall be returned to its secure location after completion of the table game count.

(e) Prior to the movement of a trolley containing table game drop boxes from a table game pit, the count room supervisor shall verify that the number of drop boxes being removed from the pit equals the number of drop boxes that have been loaded on the trolley, and that the locks controlled by security and the finance departments have been locked.

(f) A table game drop box being replaced by an emergency drop box shall be transported, using a trolley, directly to and secured in the count room by at least one security department employee and one finance department employee.

(g) Table game drop boxes not attached to a gaming table, including emergency table game drop boxes, which are not in use shall be stored in the count room or other secure area specified in the certificate holder's internal controls. These table game drop boxes shall be stored in an enclosed cabinet or trolley and secured in the cabinet or trolley by a separately keyed, double locking system. The key to one lock shall be maintained and controlled by the security department and the key to the other lock shall be maintained and controlled by the finance department.

(h) Notwithstanding subsection (d), the security department may, immediately prior to the commencement of the table game drop and count process, issue the security department's key to the trolley to a count room supervisor for the purpose of gaining access to the table game drop boxes to be dropped and counted. A key transferred from the security department shall be returned immediately following the conclusion of the count of the table game drop boxes and the return of any table game drop boxes or emergency table game drop boxes to their respective storage cabinets or trolleys by the count room supervisor. The security department shall establish sign-in and sign-out procedures in its internal controls documenting this transfer and procedures governing the control of the key during any breaks taken by count room personnel.

(i) When a gaming table on the gaming floor is not in use, the table game drop box for that table must remain attached to the gaming table.

§ 525.19 Procedures for opening, counting and recording the contents of table game drop boxes.

(a) Table game drop boxes shall be removed from all gaming tables and counted and recorded, at a minimum, once each gaming day, regardless of whether or not the gaming table was open or closed during that gaming day. Table game drop boxes from table games that are not fully automated electronic gaming tables shall be counted and recorded separately from table game drop boxes from table games that are fully automated electronic gaming tables.

(b) The contents of the table game drop boxes from table games that are not fully automated electronic gaming tables shall be counted and recorded in the count room immediately following the drop in conformity with this section and a work flow diagram which shall be filed with the Bureau of Gaming Operations, the casino compliance representatives at the licensed facility and the certificate holder's surveillance department. Table game drop boxes from table games that are fully automated electronic gaming tables shall be counted and recorded in accordance with the certificate holder's internal control procedures for slot machines.

(c) The work flow diagram required under subsection (b) must indicate, at a minimum, the location of all equipment used in the counting (for example, baskets and bins) and the flow of all currency and paperwork from the start of the count to the conclusion of the count.

(d) Each certificate holder shall include in its internal control submission a description of all computer equipment used in the counting and recording process and all other systems, if any, which communicate with that computer equipment for purposes related to the counting of gross table game revenue. The submission must include, at a minimum:

(1) A detailed description of the design and use of the computer equipment and any software, screens, menus and reports related to the counting process.

(2) The names of all revenue files and who has access and what type of access they have to these files.

(3) Controls to prevent access to any count room information by anyone outside of the count room until the entire count process is concluded.

(e) The opening, counting and recording of the contents of table game drop boxes shall be performed in the presence of a casino compliance representative and the count room supervisor. If the casino compliance representative has to leave the count room during the count, the count will be suspended and all personnel in the count room shall vacate the count room until a casino compliance representative is available to observe the resumption of the count.

(f) The table game count shall be performed by the count team which consists of at least three employees which may include the count room supervisor.

(g) Employees who are in or who enter the count room when uncounted funds are present shall wear a full-length, one piece, pocketless jumpsuit with the exception of representatives of the Board, the Department, the Pennsylvania State Police, the security department and the internal audit department. Certificate holders shall include, in their internal controls, procedures:

(1) Governing the inspection of jumpsuits worn by the count team member to ensure that there are no items being taken from the count room without proper authority.

(2) Addressing the inspection of the jumpsuits to ensure that the jumpsuits have not been altered in any way as to conceal currency or other items.

(3) Prohibiting the jumpsuits used by the count team from being taken from the licensed facility.

(h) Persons present in the count room when uncounted funds are present 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.

(i) Except as otherwise provided in this section, access to the count room during the counting process shall be limited to those persons whose presence is necessary to complete the count. Count room employees may not, during the counting process, enter a storage area for table

game drop boxes or other items that is part of the count room to perform any function that is not directly related to the counting process.

(j) Each certificate holder shall submit as part of its internal controls, procedures for scheduled breaks to be taken by the count team members during the table game count. This submission must also address the use of any rest room facilities that are located in the count room.

(k) Immediately prior to the commencement of the count, a count team member shall notify surveillance that the count is about to begin so that the surveillance department can record the count as required under § 465a.9(e)(4) (relating to surveillance system; surveillance department control; surveillance department restriction).

(l) All count team members and the casino compliance representative observing the count shall sign a Count Room Attendance Sheet. Any person who enters or leaves the count room due to an emergency shall sign, and record the time of entry or exit, on the Count Room Attendance Sheet; except that, if the person exiting the count room is unable to sign the document due to an emergency, the count room supervisor shall record the person's name and time of exit and a notation describing the emergency on the Count Room Attendance Sheet. At the conclusion of the count, a copy of the Count Room Attendance Sheet shall be given to the casino compliance representative observing the count.

(m) The casino compliance representative observing the count shall ensure that the Board key that unlocks the contents of the table game drop boxes is secured to the count table in a manner approved by the Bureau of Gaming Operations. If the casino compliance representative must leave the count room during the count, the casino compliance representative shall take the Board key that unlocks the contents of the table game drop boxes with him.

(n) Once the counting process has started, the doors to the count room shall only be opened for one of the following purposes:

(1) To allow the entire count team to take a scheduled work break.

(2) To allow for a change of casino compliance representatives.

(3) To allow a main bank cashier or cage supervisor to enter the count room to perform the responsibilities in subsection (y).

(4) In the event of an emergency.

(5) To allow the count team and the casino compliance representative to exit the room at the conclusion of the count.

(o) If any person enters or leaves the count room during the counting process, any employee remaining in the count room shall be required to display his hands and to step away from the count table, banking table and counting equipment until the person has entered or left the count room.

(p) The counting and recording process shall be discontinued whenever less than three count team members are present in the count room. When the entire count team will be taking a scheduled break, prior to leaving the count room all cash that has been removed from the table game drop boxes shall be counted at least once and secured in a manner approved by the Bureau of Casino Compliance.

(q) Once the counting process has been started, the count room supervisor shall be required to notify surveillance whenever the count room door will be opened.

(r) Once all currency has been counted and the final count totals have been obtained, employees may not be permitted to leave the count room, except in an emergency, until the recount and presentation procedures in subsection (y) have been completed.

(s) A certificate holder shall include in its internal controls the procedures for conducting the count. These procedures must include, at a minimum, the following:

(1) In full view of the surveillance cameras located in the count room, the contents of each table game drop box shall be emptied on the count table and either manually counted separately on the count table or counted on a currency counting machine which is located in a conspicuous location on, near or adjacent to the count table.

(2) After the contents of each table game drop box have been emptied on the count table, the inside of the table game drop box shall be held up to the full view of the surveillance cameras to assure that all contents of the table game drop box have been removed, after which the table game drop box shall be locked and placed in the storage area for table game drop boxes. Any table game drop box shall be reopened at any time upon the request of the casino compliance representative to assure that all contents have been removed.

(3) The contents of each table game drop box shall be segregated by a count team member into separate stacks on the count table by each denomination of currency and by the type of required forms or documents, except that the Bureau of Gaming Operations may permit the utilization of a machine to sort currency automatically by denomination. A count team member shall also separate out any mutilated or torn currency to ensure that each item is properly counted and recorded by denomination and attempt to match pieces of mutilated or torn currency to determine if a complete bill exists.

(4) Mutilated or torn currency shall be recorded as revenue if the bill includes one entire serial number and one letter and number of the serial number from the other half of the bill.

(5) Mutilated or torn currency that is not recorded as revenue shall be placed in a sealed transparent envelope or container and transferred to the main bank by the main bank cashier or cage supervisor at the end of the count.

(6) Except as provided for in paragraph (7), each denomination of currency shall be counted separately by one count team member who shall place individual bills of the same denomination on the count table in full view of the surveillance cameras, after which the currency shall be counted by a second count team member who is unaware of the result of the original count and who, after completing this count, shall confirm the accuracy of the total, either verbally or in writing, with that reached by the first count team member.

(7) A certificate holder may, with approval of the Bureau of Gaming Operations, aggregate counts by denomination of all currency collected in substitution of the second count by a table game drop box required under paragraph (6), if the original counts are being performed automatically by a machine that counts and automatically records the value of currency, and the accuracy of the machine has been suitably tested and proven in accordance with paragraph (8).

(8) Currency counting machines may be used if, prior to the start of the first use of a counting machine for each table game count, the counting machine is tested in accordance with the procedures contained in the certificate holder's internal controls to verify the accuracy of the counting machine.

(t) As the contents of each drop box are counted, a count team member shall manually record the results of the count on the Daily Banking Table Game Count Report and the Daily Nonbanking Table Game Count Report or a computer system. The Daily Banking Table Game Count Report and the Daily Nonbanking Table Game Count Report must be a three-part form consisting of an original and two duplicates. The distribution of the Daily Banking Table Game Count Report and the Daily Nonbanking Table Game Count Report shall be as follows:

(1) The original shall be delivered to revenue audit by the count room supervisor immediately after leaving the count room at the conclusion of the count.

(2) The second copy shall be retained by the casino compliance representative observing the count.

(3) The third copy shall be retained by the cage supervisor or main bank cashier.

(u) After the contents of each drop box from a banking table game are counted, a member of the count team shall record, manually on the Daily Banking Table Game Count Report or electronically on a computer system, the following information for each banking table game drop box:

(1) The value of each denomination of currency counted.

(2) The total value of all denominations of currency counted.

(3) The serial number and amount of each Counter Check counted.

(4) The amount of all Counter Checks counted.

(5) The total value of currency and Counter Checks counted.

(6) The gaming date of the items being recorded, the total number of banking table game drop boxes opened and counted and the date that the Daily Banking Table Game Count Report is being prepared or generated.

(v) After the contents of each drop box from a nonbanking table game are counted, a member of the count team shall record, manually on the Daily Nonbanking Table Game Count Report or electronically on a computer system, the following information for each nonbanking table game drop box:

(1) The value of Poker Rake chips counted.

(2) The value of value chips counted.

(3) The total value of Poker Rake chips and value counted.

(4) The gaming date of the items being recorded, the total number of nonbanking table game drop boxes opened and counted and the date that the Daily Nonbanking Table Game Count Report is being prepared or generated.

(w) After preparation of the Daily Banking Table Game Count Report and the Daily Nonbanking Table Game Count Report or the electronic equivalents prepared on a computer system, the count team members and the count room supervisor shall sign the reports attesting to the accuracy of information recorded thereon. The count room

supervisor shall verify that all of the drop boxes collected and opened by count team members have been recorded on the reports.

(x) If any problems occur with the count procedures or machines (for example, computer interface malfunctions or strap overages or shortages), the problems shall be brought to the immediate attention of the casino compliance representative in the count room and a detailed written report explaining the problem, the reason for the problem and the corrective action taken shall be filed by the count room supervisor or above with the casino compliance representatives within 24 hours of the conclusion of the count.

(y) After the contents of all table game drop boxes have been removed and counted, all cash, gaming vouchers, value chips, Poker rake chips and Counter Checks shall be presented in the count room by a count team member to a main bank cashier or cage supervisor who, prior to having access to the information recorded on the Daily Banking Table Game Count Report and the Daily Nonbanking Table Game Count Report or electronic equivalents and in the presence of the count team members and the casino compliance representative, shall recount, either manually or mechanically, the currency, value chips, Poker rake chips and Counter Checks presented in accordance with the following requirements:

(1) The main bank cashier or cage supervisor shall have physical access to all currency, value chips, Poker rake chips and Counter Checks presented for recounting and no currency, value chips, Poker rake chips and Counter Checks for recounting shall be wrapped or placed in any sealed bag or container until the entire recount has been completed and the Daily Banking Table Game Count Report and the Daily Nonbanking Table Game Count Report or electronic equivalents have been signed by the entire count team, the count room supervisor, the main bank cashier or cage supervisor and the casino compliance representative.

(2) The main bank cashier or cage supervisor may bulk count all strapped currency.

(3) Partial straps, loose currency, mutilated or torn currency, value chips, Poker rake chips and Counter Checks shall be recounted by the main bank cashier or cage supervisor either by hand or with an approved counting device.

(4) The casino compliance representative may direct that currency straps of any denomination be recounted by the main bank cashier or cage supervisor either by hand or by counting equipment, if a discrepancy either in denomination total or grand total is discovered during the initial bulk recount.

(5) Upon completion of the recount, the main bank cashier or cage supervisor shall attest by signature on the Daily Banking Table Game Count Report and the Daily Nonbanking Table Game Count Report or electronic equivalents the amounts of currency, value chips, Poker rake chips and Counter Checks counted, after which the

casino compliance representative shall sign the report evidencing his presence during the count and the fact that both the main bank cashier or cage supervisor and count team have agreed on the total amounts of currency, value chips, Poker rake chips and Counter Checks counted.

(6) Once all required signatures have been obtained, the second copy of the Daily Banking Table Game Count Report and the Daily Nonbanking Table Game Count Report or electronic equivalents shall be given to the casino compliance representative and the third copy shall be retained by the cage supervisor or main bank cashier.

(7) The original Daily Banking Table Game Count Report and the Daily Nonbanking Table Game Count Report or electronic equivalents, the Requests for Fills, the Fill Slips, the Requests for Credits, the Credit Slips, the issuance copy of the Counter Checks, the Table Inventory Slips and any other supporting documentation shall be transported directly to the accounting department and may not be available to cashiers' cage personnel.

(z) A count room employee, in the presence of the casino compliance representative who observed the count, shall conduct a thorough inspection of the entire count room and all counting equipment located therein to verify that no currency, value chips, Poker rake chips and Counter Checks remain in the room.

§ 525.20. Alternate procedures for collecting, distributing, opening, counting and recording the contents of nonbanking table game drop boxes.

(a) A certificate holder may submit as part of its internal controls, alternate procedures for the separate collection, distribution, opening, counting and recording the contents of nonbanking table game drop boxes which do not have to meet all of the requirements in §§ 525.18 and 525.19 (relating to transport of table game drop boxes to and from gaming tables; and procedures for opening, counting and recording the contents of table game drop boxes).

(b) These alternate procedures must, at a minimum, include requirements that:

(1) The count shall be conducted:

(i) In the count room at a time during which neither the count for banking table games or slot machines is being conducted.

(i) In a room, other than the count room, with dual access controlled by the security department and the finance department and which is covered by the slot machine licensee's surveillance system.

(2) The count shall be conducted by at least two employees of the finance department with no incompatible duties.

[Pa.B. Doc. No. 10-1082. Filed for public inspection June 11, 2010, 9:00 a.m.]