

# RULES AND REGULATIONS

## Title 58—RECREATION

### PENNSYLVANIA GAMING CONTROL BOARD

[ 58 PA. CODE CHS. 801—803 ]

#### Interactive Gaming; Temporary Regulations

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 13B03(b) (relating to regulations) and the specific authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers), adds the relevant terms associated with interactive gaming implementation in this Commonwealth and delineates the petition and application requirements for interactive gaming certificates and interactive gaming operators to read set forth in Annex A.

#### *Purpose of this Temporary Rulemaking*

This temporary rulemaking defines the relevant terms associated with interactive gaming implementation in this Commonwealth and delineates the petition and application requirements for interactive gaming certificates and interactive gaming operators.

#### *Explanation of Chapters 801—803*

Chapters 801—803 (relating to general interactive gaming provisions—temporary regulations; interactive gaming certificates—temporary regulations; and interactive gaming operators—temporary regulations) provide definitions of the terms associated with interactive gaming implementation in this Commonwealth and delineate the petition and application requirements for interactive gaming certificates and interactive gaming operators.

#### *Affected Parties*

This temporary rulemaking provides interested parties information relative to the entities who may participate in interactive gaming in this Commonwealth and the petition and application processes for some of those parties.

#### *Fiscal Impact*

##### *Commonwealth*

The Board does not expect that this temporary rulemaking will have fiscal impact on the Board or any other Commonwealth agency. Petitions for interactive gaming certificates and applications for interactive gaming operator licenses will be reviewed by existing Board staff.

##### *Political subdivisions*

This temporary rulemaking will not have direct fiscal impact on political subdivisions of this Commonwealth. Host municipalities and counties benefit from the local share funding that is mandated by the act of January 7, 2010 (P.L. 1, No. 1).

##### *Private sector*

This temporary rulemaking defines the relevant terms associated with interactive gaming implementation in this Commonwealth and delineates the petition and application requirements for interactive gaming certificates and interactive gaming operators. It is anticipated that this temporary rulemaking will have an impact only on those individuals seeking to acquire these certificates or licenses, the impact being for licensing costs which will be recouped through proceeds from the provision of interactive gaming.

#### *General public*

This temporary rulemaking will not have direct fiscal impact on the general public.

#### *Paperwork Requirements*

Individuals eligible for an interactive gaming certificate will have to file a petition with the Board seeking approval to conduct this activity. The contents of the petition are set forth in Annex A.

Individuals eligible for an interactive gaming operator license shall file an application to participate in these activities in this Commonwealth. These applications will be made available on the Board's public web site at a later date.

#### *Effective Date*

This temporary rulemaking will become effective upon publication in the *Pennsylvania Bulletin* and expire 2 years after publication.

#### *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 these 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 Laura R. Burd, Senior Counsel, Pennsylvania Gaming Control Board, P.O. Box 69060, Harrisburg, PA 17106-9060, lburd@pa.gov, Attention: Public Comment on Regulation # 125-209.

#### *Contact Person*

The contact person for questions about this temporary rulemaking is Laura R. Burd, Senior Counsel, (717) 346-8300, lburd@pa.gov.

#### *Regulatory Review*

Under 4 Pa.C.S. § 13B03, the Board has the authority to promulgate temporary regulations to facilitate the prompt implementation of interactive gaming in this Commonwealth. The temporary regulations adopted by the Board are not subject to sections 201—205 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201—1205), known as the Commonwealth Documents Law, the Regulatory Review Act (71 P.S. §§ 745.1—745.14) and section 204(b) of the Commonwealth Attorneys Act (71 P.S. § 732-204(b)). Under 4 Pa.C.S. § 13B03(c), these temporary regulations expire 2 years after publication in the *Pennsylvania Bulletin*.

#### *Findings*

The Board finds that:

(1) Under 4 Pa.C.S. § 13B03, these temporary regulations are exempt from the Regulatory Review Act, sections 201—205 of the Commonwealth Documents Law and section 204(b) of the Commonwealth Attorneys 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 Pennsylvania Race Horse Development and Gaming Act).

*Order*

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

(1) The regulations of the Board, 58 Pa. Code, are amended by adding §§ 801.1—801.4, 802.1—802.3 and 803.1—803.3 to read as set forth in Annex A.

(2) These temporary regulations will be posted on the Board's web site.

(3) These temporary regulations are subject to amendment as deemed necessary by the Board.

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

(5) These temporary regulations are effective upon publication in the *Pennsylvania Bulletin* and expire 2 years after publication.

DAVID M. BARASCH,  
*Chairperson*

**Fiscal Note:** 125-209. No fiscal impact; (8) recommends adoption.

**Annex A****TITLE 58. RECREATION****PART VII. GAMING CONTROL BOARD****Subpart L. INTERACTIVE GAMING****Chap.**

801.	GENERAL INTERACTIVE GAMING PROVISIONS—TEMPORARY REGULATIONS
802.	INTERACTIVE GAMING CERTIFICATES—TEMPORARY REGULATIONS
803.	INTERACTIVE GAMING OPERATORS—TEMPORARY REGULATIONS

**CHAPTER 801. GENERAL INTERACTIVE GAMING PROVISIONS—TEMPORARY REGULATIONS****Sec.**

801.1.	Scope.
801.2.	Definitions.
801.3.	Certificate or license required.
801.4.	Initial and renewal certificate and license fees.

**§ 801.1. Scope.**

The purpose of this subpart is to govern the operation of interactive gaming. The act and the Board's regulations promulgated thereunder otherwise apply when not in conflict with this subpart.

**§ 801.2. Definitions.**

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

*Airport authority*—Any of the following:

(i) The governing body of a municipal authority organized and incorporated to oversee the operations of a qualified airport under 53 Pa.C.S. §§ 5601—5623 (relating to Municipality Authorities Act).

(ii) A city of the first class that regulates the use and control of a qualified airport located partially in a county of the first class and partially in a county contiguous to a county of the first class.

*Airport gaming area*—A location within a qualified airport area approved by the airport authority and the Board for the conduct of interactive gaming through the use of multiuse computing devices by eligible passengers.

*Associated equipment*—Any equipment or mechanical, electromechanical or electronic contrivance, component or machine used in connection with interactive gaming, including equipment which affects the proper reporting

and counting of gross interactive gaming revenue, computerized systems for controlling and monitoring interactive games, including interactive gaming devices necessary for the operation of interactive games as approved by the Board.

*Authorized interactive game*—An interactive game approved by regulation of the Board to be suitable for interactive gaming offered by an interactive gaming certificateholder or an interactive gaming operator on behalf of an interactive gaming certificateholder in accordance with sections 13B01—13B63 of the act (relating to interactive gaming). The term includes an interactive game approved by regulation of the Board to be suitable for interactive gaming through use of a multiuse computing device.

*Cash equivalent*—An asset that is readily convertible to cash, including any of the following:

(i) Chips or tokens.

(ii) Travelers checks.

(iii) Foreign currency and coin.

(iv) Certified checks, cashier's checks and money orders.

(v) Personal checks or drafts.

(vi) A negotiable instrument applied against credit extended by a certificateholder, an interactive gaming certificateholder, an interactive gaming operator or a financial institution.

(vii) A prepaid access instrument.

(viii) Any other instrument or representation of value that the Board deems a cash equivalent.

*Cheat*—

(i) To defraud or steal from any player, interactive gaming certificateholder, interactive gaming operator or the Commonwealth while operating or playing an authorized interactive game, including causing, aiding, abetting or conspiring with another person to do so.

(ii) The term also means to alter or causing, aiding, abetting or conspiring with another person to alter the elements of chance, method of selection or criteria which determine:

(A) The result of an authorized interactive game.

(B) The amount or frequency of payment in an authorized interactive game.

(C) The value of a wagering instrument.

(D) The value of a wagering credit.

(iii) The term does not include altering an interactive gaming device or associated equipment for maintenance or repair with the approval of an interactive gaming certificateholder or interactive gaming operator.

*Cheating device*—A device, software or hardware used or possessed with the intent to be used to cheat during the operation or play of any authorized interactive game. The term also includes any device used to alter an authorized interactive game or interactive gaming device or associated equipment without the interactive gaming certificateholder's or interactive gaming operator's approval.

*Communication technology*—Any method used and the components employed to facilitate the transmission and receipt of information, including transmission and reception by systems using wire, wireless, cable, radio, micro-

wave, light, fiber optics, satellite or computer data networks, including the Internet and intranets.

*Concession operator*—A person engaged in the sale or offering for sale of consumer goods or services to the public at a qualified airport, or authorized to conduct other commercial activities related to passenger services at a qualified airport, in accordance with the terms and conditions of an agreement or contract with an airport authority, government entity or other person.

*Conduct of gaming*—The licensed placement, operation and play of interactive games under this subpart, as authorized and approved by the Board. The term includes the licensed placement, operation and play of authorized interactive games through the use of multiuse computing devices at a qualified airport under sections 13B20—13B20.7 of the act (relating to multi-use computing devices).

*Contest*—An authorized interactive game competition among players for cash, cash equivalents or prizes.

*Eligible passenger*—An individual 21 years of age or older who has cleared security check points with a valid airline boarding pass for travel from one destination to another.

*Gaming employee*—An employee of any of the following who the Board determines, after a review of the work to be performed, requires a gaming employee permit for the protection of the integrity of interactive gaming operations in this Commonwealth:

- (i) An interactive gaming certificateholder or interactive gaming operator licensee.
- (ii) An interactive gaming manufacturer licensee or interactive gaming supplier licensee.
- (iii) An interactive service provider.
- (iv) Any other person as determined by the Board.

*Gaming-related restricted area*—A room or area of a licensed facility which is specifically designated by the Board as restricted or by the interactive gaming certificateholder or interactive gaming operator as restricted in its Board-approved internal controls.

*Gaming school*—An educational institution approved by the Department of Education as an accredited college or university, community college, Pennsylvania private licensed school or its equivalent and whose curriculum guidelines are approved by the Department of Labor and Industry to provide education and job training related to employment opportunities associated with interactive games, including interactive gaming devices and associated equipment maintenance and repair.

*Gross interactive airport gaming revenue*—

(i) Revenue is the total of all cash or cash equivalent wagers paid by an eligible passenger to an interactive gaming certificateholder at a qualified airport through the use of multiuse computing devices in consideration for the play of authorized interactive games at a qualified airport through the use of multiuse computing devices, including cash received as entry fees for contests or tournaments, minus:

(A) The total of cash or cash equivalents paid out to an eligible passenger as winnings.

(B) The actual cost paid by the interactive gaming certificateholder at a qualified airport through the use of multiuse computing devices for personal property distributed to a player as a result of playing an authorized

interactive game. This clause does not include travel expenses, food, refreshments, lodging or services.

(ii) Amounts deposited with an interactive gaming certificateholder for purposes of interactive gaming at a qualified airport through the use of multiuse computing devices and amounts taken in fraudulent acts perpetrated against an interactive gaming certificateholder for which the interactive gaming certificateholder is not reimbursed and may not be considered to have been paid to the interactive gaming certificateholder for purposes of calculating gross interactive airport gaming revenue.

*Gross interactive gaming revenue*—

(i) The total of all cash or cash equivalent wagers paid by registered players to an interactive gaming certificateholder in consideration for the play of authorized interactive games, including cash received as entry fees for contests or tournaments, minus:

(A) The total of cash or cash equivalents paid out to registered players as winnings.

(B) The actual cost paid by the interactive gaming certificateholder for any personal property distributed to a player as a result of playing an authorized interactive game. This clause does not include travel expenses, food, refreshments, lodging or services.

(ii) Amounts deposited with an interactive gaming certificateholder for purposes of interactive gaming and amounts taken in fraudulent acts perpetrated against an interactive gaming certificateholder for which the interactive gaming certificateholder is not reimbursed may not be considered to have been paid to the interactive gaming certificateholder for purposes of calculating gross interactive gaming revenue.

*Interactive game*—

(i) A gambling game offered through the use of communications technology that allows a person utilizing money, checks, electronic checks, electronic transfers of money, credit cards or any other instrumentality to transmit electronic information to assist in the placement of a bet or wager and corresponding information related to the display of the game, game outcomes or other similar information.

(ii) The term does not include any of the following:

(A) A lottery game or Internet instant game as defined in the State Lottery Law (72 P.S. §§ 3761-101—3761-2103).

(B) Lottery under 4 Pa.C.S. §§ 501—505 (relating to lottery).

(C) A nongambling game that does not otherwise require a license under the laws of the Commonwealth.

(D) A fantasy contest under 4 Pa.C.S. §§ 301—342 (relating to fantasy contests).

*Interactive gaming*—The placing of wagers with an interactive gaming certificateholder or interactive gaming operator using a computer network of Federal and non-Federal interoperable packet switched data networks through which an interactive gaming certificateholder may offer authorized interactive games to registered players. The term includes the placing of wagers through the use of a multiuse computing device.

*Interactive gaming account*—The formal electronic system implemented by an interactive gaming certificateholder to record the balance of a registered player's debits, credits and other financial activity related to interactive gaming.

*Interactive gaming account agreement*—An agreement entered into between an interactive gaming certificateholder and a registered player which governs the terms and conditions of the registered player's interactive gaming account and the use of the Internet for purposes of placing wagers on authorized interactive games operated by an interactive gaming certificateholder or interactive gaming operator.

*Interactive gaming agreement*—An agreement entered into by or between an interactive gaming certificateholder and an interactive gaming operator related to the offering or operation of interactive gaming or an interactive gaming system by the interactive gaming operator on behalf of the interactive gaming certificateholder. The term includes an interactive gaming agreement entered into between an interactive gaming certificateholder and an interactive gaming operator for the conduct of interactive gaming through the use of multiuse computing devices at a qualified airport in accordance with sections 13B01—13B63 of the act.

*Interactive gaming certificate*—The authorization issued to a slot machine licensee by the Board authorizing the operation and conduct of interactive gaming by a slot machine licensee in accordance with sections 13B01—13B63 of the act.

*Interactive gaming certificateholder*—A slot machine licensee that has been granted authorization by the Board to operate interactive gaming in accordance with sections 13B01—13B63 of the act.

*Interactive gaming device*—The hardware, software and other technology, equipment or device of any kind as determined by the Board to be necessary for the conduct of authorized interactive games.

*Interactive gaming license*—A license issued to an interactive gaming operator by the Board under sections 13B01—13B63 of the act.

*Interactive gaming manufacturer*—

(i) A person who manufactures, builds, rebuilds, fabricates, assembles, produces, programs, designs or otherwise makes modifications to an authorized interactive games for use or play of authorized interactive games in this Commonwealth for gaming purposes.

(ii) The term includes operators of live gaming studios.

(iii) The term does not include a person who manufactures, builds, rebuilds, fabricates, assembles, produces, programs, designs or otherwise makes modifications to multiuse computing devices used in connection with the conduct of interactive gaming at a qualified airport.

*Interactive gaming manufacturer license*—A license issued by the Board authorizing a manufacturer to manufacture or produce interactive gaming devices or associated equipment for use in this Commonwealth for gaming purposes. The term includes the operators of live gaming studios.

*Interactive gaming operator*—A person licensed by the Board to operate interactive gaming or an interactive gaming system, through the provision of an interactive gaming platform, on behalf of an interactive gaming certificateholder. The term includes a person that has received conditional authorization under section 13B14 of the act (relating to interactive gaming operators) for as long as the authorization is effective.

*Interactive gaming platform*—The combination of hardware and software or other technology designed and used to manage, conduct and record interactive games and the

wagers associated with interactive games, as approved by the Board. The term includes emerging or new technology deployed to advance the conduct and operation of interactive gaming, as approved through regulation by the Board.

*Interactive gaming reciprocal agreement*—An agreement negotiated by the Board and approved by the Governor on behalf of the Commonwealth with the regulatory agency of one or more states or jurisdictions where interactive gaming is legally authorized which will permit the conduct of interactive gaming between interactive gaming certificateholders in this Commonwealth and gaming entities in the states or jurisdictions that are parties to the agreement.

*Interactive gaming restricted area*—A room or area, as approved by the Board, used by an interactive gaming certificateholder or interactive gaming operator to manage, control and operate interactive gaming, including, when approved by the Board, redundancy facilities and remote gaming server locations.

*Interactive gaming service provider*—A person that is not required to be licensed as a manufacturer, supplier, management company, gaming junket enterprise or a gaming service provider under this part who:

(i) Provides goods or services to an interactive gaming certificateholder or interactive gaming operator for the operation of interactive gaming.

(ii) Is determined to be an interactive service provider by the Board.

*Interactive gaming skin or skins*—The portal to an interactive gaming platform or interactive gaming web site through which authorized interactive games are made available by an interactive gaming certificateholder or interactive gaming operator to registered players in this Commonwealth or registered players in any other state or jurisdiction which has entered into an interactive gaming reciprocal agreement.

*Interactive gaming supplier*—

(i) A person who sells, leases, offers or otherwise provides, distributes or services an interactive gaming device or associated equipment for use or play of interactive games in this Commonwealth.

(ii) The term includes a person that sells, leases, offers or otherwise provides, distributes or services multiuse computing devices approved by the Board.

(iii) The term does not include the seller of a device that does not contain or operate interactive gaming software or systems or that has not been configured as a multiuse computing device at the time it is sold.

*Interactive gaming supplier license*—A license issued by the Board authorizing a supplier to provide products or services related to interactive gaming devices, including multiuse computing device or associated equipment, to interactive gaming certificateholders or interactive gaming operators for use in this Commonwealth for gaming purposes.

*Interactive gaming system*—The hardware, software and communications that comprise a type of server-based gaming system for the purpose of offering authorized interactive games.

*Interactive gaming web site*—The interactive gaming skin or skins through which an interactive gaming certificateholder or interactive gaming operator makes authorized interactive games available for play.

*Key employee—*

(i) All of the following:

(A) An individual who is employed in a director or department head capacity and who is empowered to make discretionary decisions that regulate interactive gaming operations, including the director of interactive gaming, director of interactive gaming system programs or other similar job classifications associated with interactive gaming.

(B) Persons who manage, control or administer interactive gaming or the bets and wagers associated with authorized interactive games.

(C) An employee who is not otherwise designated as a gaming employee and who supervises the operations of the interactive gaming department or to whom the interactive gaming department directors or interactive gaming department heads report and other positions not otherwise designated or defined under this part which the Board will determine based on detailed analyses of job descriptions as provided in the internal controls of the licensee as approved by the Board.

(ii) All other gaming employees unless otherwise designated by the Board shall be classified as nonkey employees.

*Licensed facility—*

(i) The physical land-based location at which a licensed gaming entity is authorized to place and operate slot machines and, if authorized by the Board under sections 13A01—13A63 of the act (relating to table games), to conduct table games and, if authorized under sections 13B01—13B63 of the act, to conduct interactive gaming.

(ii) The term includes any of the following:

(A) An area of a licensed racetrack at which a slot machine licensee was previously authorized under section 1207(17) of the act (relating to regulatory authority of board) to operate slot machines prior to January 6, 2018.

(B) A Board-approved interim facility or temporary facility.

(C) An area of a hotel which the Board determines is suitable to conduct table games.

(D) An area of a licensed facility where casino simulcasting is conducted, as approved by the Board.

(iii) The term does not include a redundancy facility or an interactive gaming restricted area which is not located on the premises of a licensed facility as approved by the Board and which is maintained and operated by an interactive gaming certificateholder or interactive gaming operator in connection with interactive gaming or casino simulcasting. A license to conduct live thoroughbred or harness horse race meetings respectively with parimutuel wagering from the State Horse Racing Commission under 3 Pa.C.S. §§ 9301—9374 (relating to race horse industry reform).

*Live gaming studio—*A physical location that utilizes live video streaming technology to provide live casino games to a player's interactive gaming device or multiuse computing device that permits the player to participate in live streamed casino games, interact with gaming studio dealers and interact with fellow players.

*Multiuse computing device—*A computing device, including a tablet computer, that:

(i) Is located and accessible to eligible passengers only in an airport gaming area.

(ii) Allows an eligible passenger to play an authorized interactive game.

(iii) Communicates with a server that is in a location approved by the Board.

(iv) Is approved by the Board.

(v) Has the capability of being linked to and monitored by the Department's central control computer system, as applicable for any particular interactive game, in accordance with section 1323 of the act (relating to central control computer system).

(vi) Offers a player additional functions which includes Internet browsing, the capability of checking flight status, and ordering food or beverages.

*Multistate agreement—*The written agreement, approved by the Governor, between the Board and regulatory agencies in other states or jurisdictions for the operation of an interactive multistate wide-area progressive system.

*Multistate wide-area progressive system—*The linking of interactive games offered by interactive gaming certificateholders or interactive gaming operators in this Commonwealth with interactive games located in one or more states or jurisdictions whose regulatory agencies have entered into written agreements with the Board for the operation of the system.

*Net terminal revenue—*The net amount of the gross terminal revenue less the tax and assessments imposed by sections 1402, 1403, 1405 and 1407 of the act.

*Non-peer-to-peer interactive game—*An authorized interactive game in which the player does not compete against players and which is not a peer-to-peer interactive game.

*Peer-to-peer interactive game—*An authorized interactive game which is nonbanking, in which a player competes against one or more players and in which the interactive gaming certificateholder collects a rake.

*Player—*An individual wagering cash, a cash equivalent or other thing of value in the play or operation of an authorized interactive game, including during a contest or tournament, the play or operation of which may deliver or entitle the individual playing or operating the authorized interactive game to receive cash, a cash equivalent or other thing of value from another player or an interactive gaming certificateholder or interactive gaming operator.

*Prepaid access instrument—*A card, code, electronic serial number, mobile identification number, personal identification number or similar device that:

(i) Allows patron access to funds that have been paid in advance and can be retrieved or transferred through the use of the device.

(ii) Qualifies as an access device for purposes of regulations issued by the Board of Governors of the Federal Reserve System under 12 CFR Part 205 (relating to electronic fund transfers (Regulation E)).

(iii) Shall be distributed by a slot machine licensee or its affiliates to be considered a cash equivalent at the slot machine licensee's licensed facility or the location of the slot machine licensee's affiliates.

(iv) Shall be used in conjunction with an approved cashless wagering system or electronic credit system to transfer funds for gaming purposes.

*Progressive payout—*An interactive game wager payout that increases in a monetary amount based on the

amounts wagered in a progressive system, including a multistate wide-area progressive interactive game system.

*Progressive system*—A computerized system linking interactive games offered by interactive gaming certificateholders or interactive gaming operators in this Commonwealth and offering one or more common progressive payouts based on the amounts wagered. The term includes a multistate wide-area progressive system.

*Qualified airport*—A publicly owned commercial service airport.

*Qualified gaming entity*—A gaming entity licensed in a jurisdiction that has satisfied the requirements of this subpart and any other criteria established by the Board, including financial and character suitability requirements.

*Redundancy facilities*—Rooms or areas used by an interactive gaming certificateholder, an interactive gaming operator, or other licensed or authorized entity associated with the provision of interactive gaming for emergency backup, redundancy or secondary operations attendant to interactive gaming as approved by the Board.

*Registered player*—An individual who has entered into an interactive gaming account agreement with an interactive gaming certificateholder.

*State gaming receipts*—Revenues and receipts required under this subpart to be paid into the State Gaming Fund, the Pennsylvania Race Horse Development Trust Fund and the Pennsylvania Gaming Economic Development and Tourism Fund, and all rights, existing on January 6, 2018, or coming into existence later, to receive revenues and receipts.

### § 801.3. Certificate or license required.

The Board will initiate formal procedures for the acceptance, consideration and final adjudication of petitions and applications by setting filing requirements and deadlines for interactive gaming certificates and interactive gaming operator licenses. The filing requirements and deadlines will be posted on the Board's public web site.

### § 801.4. Initial and renewal certificate and license fees.

Prior to the Board issuing an interactive gaming certificate or interactive gaming operator license or renewal thereof, the interactive gaming certificateholder or interactive gaming operator licensee shall pay the certificate or license fee.

## CHAPTER 802. INTERACTIVE GAMING CERTIFICATES—TEMPORARY REGULATIONS

Sec.	
802.1.	Interactive gaming certificate requirements.
802.2.	Interactive gaming certificate petition and standards.
802.3.	Interactive gaming certificate term and renewal.

### § 802.1. Interactive gaming certificate requirements.

(a) A slot machine licensee seeking to offer interactive gaming in this Commonwealth may petition the Board for an interactive gaming certificate.

(b) Three categories of interactive gaming are authorized in this Commonwealth:

- (1) A peer-to-peer interactive game.
- (2) A non-peer-to-peer interactive game which simulates slot machines.

(3) A non-peer-to-peer interactive game which simulates table games.

(c) A slot machine licensee seeking to offer interactive gaming in this Commonwealth shall adhere to all of the following time and eligibility restrictions:

(1) No later than 90 days after the date the Board begins accepting petitions under this chapter, a slot machine licensee may file a petition with the Board for an interactive gaming certificate. If the Board approves a petition for an interactive gaming certificate under this paragraph, the Board will authorize the interactive gaming certificateholder to offer any category of interactive gaming.

(2) Between 90 days and 120 days or more after the date the Board begins accepting petitions under this chapter, a slot machine licensee may file a petition with the Board for an interactive gaming certificate. If the Board approves a petition for an interactive gaming certificate under this paragraph, the Board will authorize the interactive gaming certificateholder to offer only the categories of interactive gaming identified in the slot machine licensee's petition filed under this chapter.

(3) One hundred twenty days after the date the Board begins accepting petitions under this chapter, a qualified gaming entity may file a petition with the Board for an interactive gaming certificate. If the Board approves a petition for an interactive gaming certificate under this paragraph, the Board will authorize the interactive gaming certificateholder to offer only the categories of interactive gaming identified in the slot machine licensee's petition under this chapter.

(4) A qualified gaming entity which files a petition for an interactive gaming certificate under paragraph (3) will be considered a slot machine licensee for the purposes of this chapter.

(5) A slot machine licensee who becomes licensed after January 6, 2018, shall have 90 days from the date of licensure and the Board's opening of the petition process to submit a petition with the Board for an interactive gaming certificate. If the Board approves a petition for an interactive gaming certificate under this paragraph, the Board will authorize the interactive gaming certificateholder to offer any category of interactive gaming. After 90 days but before 120 days from the date of licensure and the Board's opening of the petition process, the slot machine licensee may file a petition with the Board for an interactive gaming certificate. If the Board approves a petition for an interactive gaming certificate under this paragraph, the Board will authorize the interactive gaming certificateholder to offer only the categories of interactive gaming identified in the slot machine licensee's petition filed under this chapter.

(d) An interactive gaming certificate issued under this subpart will list the categories of interactive games authorized under the interactive gaming certificate. An interactive gaming certificate which authorizes multiple categories of interactive games will count as an interactive gaming certificate in each category of interactive game authorized under this section.

### § 802.2. Interactive gaming certificate petition and standards.

(a) A petitioner for an interactive gaming certificate shall submit all of the following to the Board:

- (1) The name, business address and contact information of the slot machine licensee applying for an interactive gaming certificate.

(2) The name, business address and contact information of any affiliate or other person that will be a party to an agreement with the interactive gaming certificate petitioner related to the operation of interactive gaming or an interactive gaming system on behalf of the interactive gaming certificate petitioner, including a person applying for an interactive gaming operator license.

(3) The name, business address, job title and a photograph of each principal and key employee of the interactive gaming certificate petitioner who will be involved in the conduct of interactive gaming, whether or not the principal or key employee is currently licensed by the Board.

(4) The name, business address, job title and a photograph of each principal and key employee of the interactive gaming operator, if any, who will conduct interactive gaming or an interactive gaming system on behalf of the interactive gaming certificate petitioner, whether or not the principal or key employee is currently licensed by the Board.

(5) A statement identifying which categories of interactive games the interactive gaming certificate petitioner intends to offer:

- (i) Peer-to-peer interactive games.
- (ii) Non-peer-to-peer interactive games which simulate slot machines.
- (iii) Non-peer-to-peer interactive games which simulate table games.

(6) An itemized list of the interactive games, including identifying the category of each interactive game for which authorization is being sought.

(7) The estimated number of full-time and part-time employment positions that will be created as a result of interactive gaming and the jurisdictions in which the positions will be located, including positions at the interactive gaming certificate petitioner's licensed facility or at any interactive gaming restricted area if an interactive gaming certificate is issued, and an updated hiring plan under section 1510(a) of the act (relating to labor hiring preferences) which outlines the interactive gaming certificate petitioners plan to promote the representation of diverse groups and Commonwealth residents in the employment positions.

(8) A brief description of the economic benefits expected to be realized by the Commonwealth if an interactive gaming certificate is issued.

(9) The details of any financing obtained or that will be obtained to fund an expansion or modification of the interactive gaming certificate petitioners licensed facility to accommodate interactive gaming and to otherwise fund the cost of commencing interactive gaming.

(10) Information and documentation concerning financial background and resources, as the Board may require, to establish by clear and convincing evidence the financial stability, integrity and responsibility of the interactive gaming certificate petitioner, and information or documentation concerning any person that will operate interactive gaming or an interactive gaming system on behalf of the interactive gaming certificate petitioner as an interactive gaming operator, as the Board may require. The interactive gaming agreement with a person is subject to the review and approval of the Board.

(11) Information and documentation, as the Board may require, to establish by clear and convincing evidence that the interactive gaming certificate petitioner has sufficient

business ability and experience to conduct a successful interactive gaming operation. In making this determination, the Board may consider the results of the interactive gaming certificate petitioner's slot machine and table game operations, including financial information, employment data and capital investment.

(12) Information and documentation, as the Board may require, to establish by clear and convincing evidence that the interactive gaming certificate petitioner has or will have the financial ability to pay the interactive gaming authorization fee.

(13) Detailed site plans identifying the proposed interactive gaming restricted area where interactive gaming operations will be managed, administered or controlled as approved by the Board.

(14) A detailed description of all of the following:

(i) The interactive gaming certificate petitioner's initial system of internal and accounting controls applicable to interactive gaming.

(ii) The interactive gaming certificate petitioner's proposed standards to protect, with a reasonable degree of certainty, the privacy and security of its registered players.

(iii) How the interactive gaming certificate petitioner will facilitate compliance with the requirements in this chapter and section 802(a)(10)(b) of the Unlawful Internet Gambling Enforcement Act of 2006 (31 U.S.C.A. § 5362(10)(b)), including all of the following:

(A) Age, identity and location verification requirements.

(B) Appropriate data security standards to prevent unauthorized access by a person whose age, identity or location have not been verified or cannot be verified in accordance with this subpart and applicable regulations of the Board.

(C) Except as provided in sections 13B61—13B63 of the act (relating to miscellaneous provisions), the requirement that all wagers made in the conduct of interactive gaming be initiated and received or otherwise made exclusively in this Commonwealth.

(D) The interactive gaming certificate petitioner's proposed age, identity and location verification standards designed to block access to persons under 21 years of age and other persons excluded or prohibited from participating in interactive gaming under this chapter.

(E) The procedures the interactive gaming certificate petitioner will use to register individuals as registered players.

(F) The procedures the interactive gaming certificate petitioner will use to establish interactive gaming accounts for registered players.

(G) The interactive games and services the interactive gaming certificate petitioner proposes to offer to registered players.

(H) Documentation and information relating to known proposed contractors of the interactive gaming certificate petitioner and subcontractors of the contractors.

(15) The interactive gaming devices and associated equipment and interactive gaming system that the interactive gaming certificate petitioner plans to or will utilize to manage, administer or control its interactive gaming operations.

(16) Compliance certification of the interactive gaming certificate petitioner's proposed interactive gaming devices and associated equipment, including interactive gaming software and hardware, by a Board-approved gaming laboratory to ensure that the gaming software and hardware comply with this subpart and regulations of the Board.

(17) A detailed description of accounting systems, including accounting systems for all the following:

- (i) Interactive gaming accounts.
- (ii) Per hand charges, if applicable.
- (iii) Transparency and reporting to the Board and the Department.
- (iv) Distribution of revenue to the Commonwealth and winnings to registered players.
- (v) Ongoing auditing and internal control compliance reviews.

(18) Detailed information on security systems to protect the interactive gaming skins or interactive gaming web site from internal and external breaches and threats.

(19) Any other information the Board may require.

(b) In addition to the materials required under subsection (a), the petitioner for an interactive gaming certificate shall show, by clear and convincing evidence, all the following:

(1) The petitioner's proposed conduct of interactive gaming complies in all respects with the requirements of this subpart and the Board's regulations.

(2) Age, identity and location verification requirements designed to block access to individuals under 21 years of age and persons otherwise excluded or prohibited from engaging in interactive gaming in accordance with this subpart, as approved by the Board, have been implemented by the slot machine licensee.

(3) The petitioner has implemented or will implement appropriate data security standards to prevent unauthorized access by a person whose age, identity and location has not been verified or cannot be verified in accordance with the Board's regulations.

(4) The petitioner has implemented or will implement appropriate standards to protect the privacy and security of registered players with a reasonable degree of certainty.

(5) The petitioner's initial system of internal and accounting controls applicable to interactive gaming, and the security and integrity of all financial transactions in connection with the system, complies with this chapter and the Board's regulations.

(6) The petitioner is in good standing with the Board.

(7) The petitioner agrees that the number of slot machines and table games in operation at its licensed facility as of January 6, 2018, will not be reduced as a result of interactive gaming.

(c) In determining whether a petitioner is suitable to be issued an interactive gaming certificate under this subpart, the Board will consider all of the following:

(1) The financial fitness, good character, honesty, integrity and responsibility of the petitioner.

(2) If all principals of the petitioner are eligible and suitable under the standards in section 1311.1 of the act (relating to licensing of principals).

(3) The integrity of financial backers.

(4) The suitability of the petitioner and the principals of the petitioner based on the satisfactory results of all of the following:

(i) The background investigation of the principals.

(ii) A current tax clearance review performed by the Department.

(iii) A current Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review performed by the Department of Labor and Industry.

### § 802.3. Interactive gaming certificate term and renewal.

(a) An interactive gaming certificate and the renewal thereof is valid for 5 years from the date of approval of the petition by the Board.

(b) A renewal application for an interactive gaming certificate shall be filed at least 6 months prior to the expiration of the current certificate.

(c) An interactive gaming certificate for which a completed renewal application and fee has been received by the Board will continue in effect until acted upon by the Board.

## CHAPTER 803. INTERACTIVE GAMING OPERATORS—TEMPORARY REGULATIONS

Sec.

- 803.1. Interactive gaming operator requirements.
- 803.2. Interactive gaming operator application and standards.
- 803.3. Interactive gaming operator license term and renewal.

### § 803.1. Interactive gaming operator requirements.

(a) A person seeking to operate interactive gaming or an interactive gaming system on behalf of an interactive gaming certificateholder in this Commonwealth may apply with the Board for an interactive gaming operator license.

(b) The Board may issue conditional authorization to a person applying for an interactive gaming operator license until July 6, 2019.

(1) Conditional authorization issued under this subpart shall remain in effect until the earlier of the date occurring 12 months after the issuance of the authorization or the date upon which the Board makes a final determination on the person's application.

(i) The effectiveness of a conditional authorization may be extended by the Board not more than once, upon a showing of good cause.

(ii) Conditional authorization will allow an applicant for an interactive gaming operator license to engage in all of the functions of a licensed interactive gaming operator for the duration of the conditional authorization.

(2) A conditional authorization will not be issued unless:

(i) The applicant has submitted a complete application for an interactive gaming operator license to the Board.

(ii) The applicant agrees to pay or has paid the fee prescribed in section 13B51 of the act (relating to interactive gaming authorization fee) prior to the issuance of conditional authorization.

(iii) The Bureau has no objection to the issuance of a conditional authorization to the applicant.



**§ 803.2. Interactive gaming operator application and standards.**

An applicant for an interactive gaming operator license shall submit all of the following:

- (1) An original and one copy of the Interactive Gaming Operator Application and Disclosure Information Form unless otherwise directed by the Board.
- (2) The nonrefundable application fee posted on the Board's web site.
- (3) A diversity plan as set forth in section 1325(b) of the act (relating to license or permit issuance) and Chapter 481a (relating to diversity).
- (4) An application from every key employee under this chapter and principal under Chapter 433a (relating to principal licenses) as specified by the Interactive Gaming Operator Application and Disclosure Information Form.
- (5) A sworn or affirmed statement that the applicant has developed and implemented internal safeguards and policies to prevent a violation of section 1513 of the act (relating to political influence) and a copy of the safeguards and policies.

**§ 803.3. Interactive gaming operator license term and renewal.**

- (a) An interactive gaming operator license and the renewal thereof is valid for 5 years from the date of approval of the application by the Board.
- (b) A renewal application for an interactive gaming operator license shall be filed at least 6 months prior to the expiration of the current certificate.
- (c) An interactive gaming operator license for which a competed renewal application and fee has been received by the Board will continue in effect until acted upon by the Board, whichever occurs first.

[Pa.B. Doc. No. 18-7. Filed for public inspection January 5, 2018, 9:00 a.m.]

of the race horse and commercial gaming industry in this Commonwealth. See 4 Pa.C.S. § 13F01 (relating to legislative intent and purpose).

*Explanation*

Section 1001.1 (relating to definitions) provides the relevant definitions used throughout Chapter 1001 (relating to casino simulcasting—temporary regulations) for the conduct of casino simulcasting.

Section 1001.2 (relating to general requirements) establishes the general requirements a Category 2, 3 or 4 casino licensee shall fulfill to obtain a casino simulcasting permit including submitting an application for a casino simulcasting permit, and providing supplemental information as requested by the Board. Sections 1001.3 and 1001.4 (relating to preliminary application submission review; and application processing) provide for a preliminary review of the application and processing by Board staff. Section 1001.5 (relating to deficient and abandoned applications) deals with deficient and abandoned applications. Section 1001.6 (relating to application withdrawal) provides how an applicant withdraws an application from consideration.

Section 1001.7 (relating to casino simulcasting permit issuance and statement of conditions) establishes the criteria for the Board's issuance of a casino simulcasting permit upon a finding that the applicant fulfills each condition set by the Board and 4 Pa.C.S. Part II (relating to Pennsylvania Race Horse Development and Gaming Act), is found suitably consistent with the laws of the Commonwealth and is otherwise qualified to be issued the casino simulcasting permit.

Section 1001.8 (relating to license, registration or permitting of employees) provides for the licensing, registration or permitting of persons employed by the licensed gaming entity or licensed racing entity engaged directly in wagering-related activities at a simulcast facility.

Section 1001.9 (relating to casino simulcasting agreements) establishes a requirement that agreements between licensed gaming entities and licensed racing entities to facilitate casino simulcasting shall be approved by the Board and the State Horse Racing Commission (Commission), and prescribes requirements for each agreement which must be present for the agreement to be effective.

Sections 1001.10—1001.18 provide the requirements for a casino simulcasting facility, permissible hours of operation, mandate compliance with rules of the Commission, permissible areas of wagering and wagering prohibitions, forfeiture, signage requirements restricted areas, and transmissions and displays of live races.

Sections 1001.19 and 1001.20 (relating to casino simulcasting accounting controls and audit protocols; and casino simulcasting record retention) address casino simulcasting accounting controls and audit protocols as well as record retention. These latter provisions provide assurances of mechanisms to audit and assure proper payments of taxes, and fairness of wagering and patron dispute resolution.

*Fiscal Impact*

*Commonwealth*

The Board does not expect that this temporary rulemaking will have a fiscal impact on the Board or any other Commonwealth agency as review of request to approve petitions for simulcasting will be reviewed and approved by existing Board personnel. In addition, exiting

**Title 58—RECREATION**

**PENNSYLVANIA GAMING CONTROL BOARD**

**[ 58 PA. CODE CH. 1001 ]**

**Casino Simulcasting; Temporary Regulations**

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. § 13F07 (relating to temporary regulations), promulgates temporary regulations governing casino simulcasting to read as set forth in Annex A.

*Purpose of this Temporary Rulemaking*

This temporary rulemaking will provide Category 2, 3 and 4 casinos in this Commonwealth with the option to provide live simulcasting of horse racing and associated simulcast wagering as a gambling product in this Commonwealth.

This temporary rulemaking is necessary to implement 4 Pa.C.S. §§ 13F01—13F44 (relating to casino simulcasting). The intent of 4 Pa.C.S. §§ 13F01—13F44 is to give licensed gaming entities the authority to conduct casino simulcasting to expand horse racing opportunities through simulcasting and, thereby, enhance the viability

Commission staff will review, oversee and regulate the simulcasting wagering activity in accordance with Commission regulations.

#### *Political subdivisions*

This temporary rulemaking will not have fiscal impact on political subdivisions of this Commonwealth.

#### *Private sector*

This temporary rulemaking is not anticipated to impose a negative fiscal impact on the regulated entities. Providing casino simulcasting is not mandated by the Board. It is a business decision to be made by the regulated entities to provide the gaming option. If pursued, there will be some equipment costs for video monitors and wagering equipment to the regulated entities to develop the simulcasting area. In addition, casino entities may need to hire, train and license a limited number of staff in the conduct of simulcasting wagering. Costs incurred to hire, train and license employees or purchase/lease equipment should be offset by the proceeds of the simulcasting wagering on horse race simulcasting.

#### *General public*

This temporary rulemaking will not have fiscal impact on the general public.

#### *Paperwork Requirements*

A Category 2, 3 or 4 casino licensee that wishes to offer casino simulcasting at its facility will be required to file a petition with the Board providing information regarding the proposed simulcasting area and equipment, security and surveillance, as well as updated accounting and internal control protocols. In addition, applications for licensure for any individuals to conduct and oversee the simulcast wagering will be submitted to the Board, either in paper form or electronically.

#### *Effective Date*

This temporary rulemaking will become effective upon publication in the *Pennsylvania Bulletin* and expire 2 years after publication.

#### *Public Comments*

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*. Public comments should be sent to R. Douglas Sherman, Chief Counsel, Attention: Regulation # 125-208 Public Comment, Pennsylvania Gaming Control Board, P.O. Box 69060, Harrisburg, PA 17106-9060.

#### *Contact Person*

The contact person for questions about this temporary rulemaking is R. Douglas Sherman, Chief Counsel, (717) 346-8300.

#### *Regulatory Review*

Under 4 Pa.C.S. § 13F07, the Board is granted the authority to promulgate temporary regulations which expire not later than 2 years following publication in the *Pennsylvania Bulletin*. The temporary regulations are not subject to sections 201—205 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201—1205), known as the Commonwealth Documents Law, the Regulatory Review Act (71 P.S. §§ 745.1—745.14) and section 204(b) of the Commonwealth Attorneys Act (71 P.S. § 732-204(b)). Under 4 Pa.C.S. § 13F07, the authority to adopt temporary regulations expires 2 years after the publication of the

temporary regulations, after which regulations adopted by the Board shall be promulgated as provide by law.

#### *Findings*

The Board finds that:

(1) Under 4 Pa.C.S. § 13F07, these temporary regulations are exempt from the Regulatory Review Act, sections 201—205 of the Commonwealth Documents Law and section 204(b) of the Commonwealth Attorneys Act.

(2) The adoption of the temporary regulations is necessary and appropriate for the administration and enforcement of 4 Pa.C.S. Part II.

#### *Order*

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

(1) The regulations of the Board, 58 Pa. Code, are amended by adding §§ 1001.1—1001.20 to read as set forth in Annex A.

(2) These temporary regulations will be posted on the Board's web site.

(3) These temporary regulations are subject to amendment as deemed necessary by the Board.

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

(5) These temporary regulations are effective upon publication in the *Pennsylvania Bulletin* and expire 2 years after publication.

DAVID M. BARASCH,  
Chairperson

**Fiscal Note:** 125-208. No fiscal impact; (8) recommends adoption.

### **Annex A**

#### **TITLE 58. RECREATION**

#### **PART VII. GAMING CONTROL BOARD**

#### **Subpart M. CASINO SIMULCASTING**

##### **Chap.**

##### **1001. CASINO SIMULCASTING—TEMPORARY REGULATIONS**

##### **CHAPTER 1001. CASINO SIMULCASTING—TEMPORARY REGULATIONS**

##### **Sec.**

- 1001.1. Definitions.
- 1001.2. General requirements.
- 1001.3. Preliminary application submission review.
- 1001.4. Application processing.
- 1001.5. Deficient and abandoned applications.
- 1001.6. Application withdrawal.
- 1001.7. Casino simulcasting permit issuance and statement of conditions.
- 1001.8. License, registration or permitting of employees.
- 1001.9. Casino simulcasting agreements.
- 1001.10. Simulcasting facilities.
- 1001.11. Hours of operation.
- 1001.12. Rules of Commission.
- 1001.13. Wagering limited to simulcasting facility.
- 1001.14. Prohibition of wagering.
- 1001.15. Forfeited winnings.
- 1001.16. Signage requirements.
- 1001.17. Restricted areas.
- 1001.18. Transmission and display of live races.
- 1001.19. Casino simulcasting accounting controls and audit protocols.
- 1001.20. Casino simulcasting record retention.

#### **§ 1001.1. Definitions.**

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

*Casino simulcasting*—The simultaneous transmission of live thoroughbred or harness horse race meetings from an in-State sending track, out-of-State sending track or a satellite facility, regardless of licensure status or whether the horse race meetings originate in this Commonwealth or any other state or jurisdiction, to a simulcasting facility in this Commonwealth by satellite devices, television cables, television lines or any other telecommunications technology for the purposes of conducting pari-mutuel wagering.

*Casino simulcasting permit or simulcasting permit*—A permit awarded by the Board under section 13F12 of the act (relating to casino simulcasting permit) which authorizes a licensed gaming entity to conduct casino simulcasting.

*Casino simulcasting permit holder*—A licensed gaming entity that holds a casino simulcasting permit issued by the Board in accordance with section 13F12 of the act.

*Commission*—The State Horse Racing Commission.

*In-State sending track*—A racetrack in this Commonwealth which is operated by a licensed racing entity and is permitted to conduct casino simulcasting.

*Licensed gaming entity*—A person who has been approved for and issued a Category 2 slot machine license, a Category 3 slot machine license or a Category 4 slot machine license in accordance with sections 1304, 1305, 1305.1 and 1325 of the act, and who holds a casino simulcasting permit.

*Licensed racing entity*—A legal entity that has obtained a license to conduct live thoroughbred or harness horse race meetings respectively with pari-mutuel wagering from the Commission under 3 Pa.C.S. §§ 9301—9374 (relating to race horse industry reform).

*Out-of-State sending track*—An interstate or international racetrack in a state or jurisdiction other than this Commonwealth which is equipped to conduct casino simulcasting and the operator of which is lawfully permitted to conduct horse race meetings and to provide simulcast horse races to slot machine licensees in this Commonwealth.

*Pari-mutuel wagering*—A form of wagering, including manual, electronic, computerized and other forms as approved by the Commission, on the outcome of a horse racing event in which all wagers are pooled and held by a licensed racing entity or secondary pari-mutuel wagering organization for distribution of the total amount, less the deductions authorized by law, to holders of winning tickets.

*Simulcast horse race*—A thoroughbred or harness horse race meeting conducted at a racetrack, whether within or outside this Commonwealth, which is simultaneously transmitted by an approved telecommunications technology to racetracks or simulcasting facilities in this Commonwealth in accordance with regulations of the Commission.

*Simulcasting facility*—An area of a licensed facility established and maintained by a licensed gaming entity for the conduct of casino simulcasting in accordance with this chapter, 3 Pa.C.S. §§ 9301—9374, and regulations of the Board and the Commission.

*Totalisator*—A computer system used to pool wagers, record sales, calculate payoffs and display wagering data on a display device that is located at a simulcasting facility.

**§ 1001.2. General requirements.**

(a) A casino simulcasting permit holder may conduct casino simulcasting in a simulcasting facility in accordance with the act and this chapter.

(b) An application for a casino simulcasting permit shall be submitted on forms or in an electronic format supplied or approved by the Board and contain all of the following information:

(1) The name, business address and contact information of the applicant.

(2) The name, location of the applicant's licensed facility.

(3) The name, business address, job title and a photograph of each principal and key employee of the applicant who will be involved in the conduct of casino simulcasting who is not currently licensed by the Board or the Commission, if known.

(4) The estimated number of full-time and part-time employment positions that will be created at the licensed facility if casino simulcasting is authorized and an updated hiring plan under section 1510(a) of the act (relating to labor hiring preferences) which outlines the applicant's plan to promote the representation of diverse groups and Commonwealth residents in the employment positions.

(5) A brief description of the economic benefits expected to be realized by the Commonwealth, the Department of Agriculture and the race horse industry in this Commonwealth if casino simulcasting is authorized at the applicant's licensed facility.

(6) The details of any financing, if applicable, obtained or that will be obtained to fund an expansion or modification of the licensed facility to accommodate casino simulcasting or construct a simulcasting facility or to otherwise fund the cost of commencing casino simulcasting operations.

(7) Information and documentation concerning financial background and resources, as the Board may require, to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant.

(8) A copy of or a detailed description of the terms and conditions of any agreement the licensed gaming entity has entered into or will enter into with a licensed racing entity to facilitate the conduct of casino simulcasting.

(9) A detailed description of any financial arrangements between a licensed gaming entity and a licensed racing entity related to the conduct of casino simulcasting.

(10) Detailed site and architectural plans of the proposed simulcasting facility within the applicant's licensed facility.

(11) A statement demonstrating compliance with the Interstate Horse Racing Act of 1978 (15 U.S.C.A. §§ 3001—3007).

(12) Any other information as the Board may require.

(c) Upon request of the Board or Board staff, the applicant shall cooperate and provide supplemental information in support of its application. The applicant shall provide requested documents, records, supporting data and other information within the time period specified in the request or, if no time is specified, within 30 days of the date of the request. If the applicant fails to provide the requested information within the required time period in the request, the Board may deny the application.

(d) The application, and amendments thereto, and other specific documents designated by the Board shall be sworn to or affirmed by the applicant before a notary public which shall be filed promptly with the Board.

(e) An application and related materials that have been submitted to the Board will become the property of the Board and will not be returned to the applicant.

**§ 1001.3. Preliminary application submission review.**

(a) Upon receipt, an application will be reviewed to ensure that it contains all of the following:

(1) The applicable application forms and additional information and accompanying documentation required by the act or the Board.

(2) Completed authorization forms, if required, for release of information from governmental agencies and other entities.

(b) If an applicant fails to include any required information, the applicant will be notified and given an opportunity to cure the deficiency.

**§ 1001.4. Application processing.**

(a) Upon a determination that the prerequisites for filing have been met, the application will be accepted for filing and Board staff, if applicable, will:

(1) Obtain information as may be necessary to determine the qualifications of the applicant and any matter relating to the application.

(2) Promptly conduct an investigation of the applicant and on any matter relating to the application.

(3) Request the Department to promptly conduct a tax clearance review.

(4) Request the Department of Labor and Industry to perform an Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review.

(5) Request any agencies, entities or persons to provide information to the Board as deemed necessary by the Board.

(b) An application submitted under this subpart and information obtained by Board staff relating to the application will be part of the evidentiary record to be utilized by the Board when deciding to approve, condition, issue or deny a casino simulcasting permit.

**§ 1001.5. Deficient and abandoned applications.**

(a) If an application is found to be deficient, Board staff will notify the applicant of the deficiencies in the application and provide an opportunity for the applicant to cure the deficiencies within a specified time period.

(b) Failure to provide the information necessary to cure the deficiencies required under subsection (a) may result in the denial of the application or in the application being declared abandoned. The Bureau of Licensing may recommend to the Board that an application is abandoned. An applicant whose application has been declared abandoned may file a new application at any time.

(c) When an application is denied or declared abandoned under subsection (b), the applicant will be given written notice of this action.

**§ 1001.6. Application withdrawal.**

A request for withdrawal of an application may be made at any time prior to the Board taking action by notarized letter sent to the Office of Hearings and Appeals.

**§ 1001.7. Casino simulcasting permit issuance and statement of conditions.**

(a) *Issuance criteria.* In addition to the criteria in the act, the Board will not issue a casino simulcasting permit unless all of the following criteria have been established by the applicant:

(1) The applicant has fulfilled each condition set by the Board or in the act, including the execution of a statement of conditions.

(2) The applicant is found suitable consistent with the laws of the Commonwealth and is otherwise qualified to be issued a casino simulcasting permit.

(b) *Statement of conditions.*

(1) The applicant, as a condition precedent to the issuance of a casino simulcasting permit, shall execute a Statement of Conditions in the manner and form required by the Board. Execution of the Statement of Conditions constitutes the acceptance of each provision in the Statement of Conditions by the applicant. The execution of the Statement of Conditions constitutes the acceptance of each provision in the Statement of Conditions by the applicant.

(2) Failure to fully comply with any provision in an executed Statement of Conditions constitutes a violation and may result in Board-imposed administrative sanctions, up to and including revocation, against a casino simulcasting permit holder.

**§ 1001.8. License, registration or permitting of employees.**

(a) Except as provided for under section 13F15 of the act (relating to key employees and occupation permits), individuals engaged directly in wagering-related activities at a simulcasting facility, whether employed by the licensed gaming entity or licensed racing entity and all other employees of the licensed gaming entity or licensed racing entity who work or will work in the simulcasting facility, shall be licensed, registered or permitted by the Board in accordance with §§ 433a.8, 435a.2, 435a.3 and 435a.5.

(b) A principal, key employee or gaming employee may obtain an emergency credential or a temporary credential under §§ 435a.7 and 435a.8 (relating to emergency credentials; and temporary credentials).

**§ 1001.9. Casino simulcasting agreements.**

(a) An agreement between a licensed gaming entity and a licensed racing entity to facilitate casino simulcasting shall be filed with an application for a casino simulcasting permit and shall be approved by the Board and separately by the Commission. An agreement is not effective until approved by the Board and the Commission.

(b) An agreement must include all of the following:

(1) The percentage of the money wagered each racing day at the simulcasting facility and remaining in the wagering pools after the required distributions under 3 Pa.C.S. § 9335 (relating to pari-mutuel pool distribution) that will be paid to the licensed gaming entity. The amount retained by the licensed gaming entity may not exceed 25% of the money retained by the licensed racing entity under 3 Pa.C.S. § 9335.

(2) The times during which a licensed gaming entity may conduct casino simulcasting.

(3) A provision that provides the grounds and mechanisms for modifying or terminating the contract upon approval by the Board and the Commission.

(4) Provisions that contain a mechanism to resolve patron disputes and disputes between the licensed gaming entity and the licensed racing entity.

(5) Design, implementation and amendment of the system of internal controls required under section 13F11 of the act (relating to application for permit and requirements) and this chapter including the financial reporting requirements.

(6) Hiring, terminating, training and promoting of employees and the employment practices attendant thereto.

(7) The payment of local, State and Federal taxes, and slot machine license deposits required under the act and this chapter and any penalties imposed by the Board for violations thereof.

(8) Obtaining and maintaining insurance coverage, including coverage of public liability and property loss or damage.

(9) Selection of the casino simulcasting permit holder's independent auditor which may be the same as independent auditor employed by the licensed gaming entity.

**§ 1001.10. Simulcasting facilities.**

(a) A licensed gaming entity approved for and issued a casino simulcasting permit to operate casino simulcasting shall establish a simulcasting facility as part of its licensed facility.

(b) A simulcasting facility may be adjacent to, but may not be a part of, a room or location in which slot machines or table gaming are operated or conducted in.

(c) The space or area required for the establishment of a simulcasting facility may not be used to decrease the number of slot machines or table games in operations at the licensed facility or to reduce the space approved by the Board for the operation of slot machines and the conduct of table games.

(d) A casino simulcasting permit holder shall establish and maintain a simulcasting facility of sufficient square footage to promote:

- (1) Efficient operation of the facility.
- (2) Viewing of simulcast horse races by patrons in a manner which is not obtrusive to the conduct of gaming within the licensed facility.
- (3) Security of the simulcasting facility shall include the installation and maintenance of security and surveillance equipment, including closed circuit television equipment, according to specifications approved by the Board. The Board shall have direct access to the system or its signal.

**§ 1001.11. Hours of operation.**

The times during which a licensed gaming entity may conduct casino simulcasting shall be the same as the times authorized for the conduct of casino simulcasting by Category 1 slot machine licensees as set forth in the casino simulcasting agreement.

**§ 1001.12. Rules of Commission.**

Except as otherwise provided in the act or this chapter, the standards and rules of racing, simulcasting and the conduct of pari-mutuel wagering in simulcasting facilities are subject to 3 Pa.C.S. §§ 9301—9374 (relating to race horse industry reform), regulations of the Commission

promulgated under 3 Pa.C.S. (relating to Agriculture Code), and the Interstate Horse Racing Act of 1978 (15 U.S.C.A. §§ 3001—3007).

**§ 1001.13. Wagering limited to simulcasting facility.**

Wagering on simulcast horse races within the premises of a licensed facility shall be conducted only in a simulcasting facility. Simulcast horse races may be shown in other areas of the licensed facility as approved by the Board, in consultation with the Commission.

**§ 1001.14. Prohibition of wagering.**

A casino simulcasting permit holder shall establish procedures:

(1) To prohibit an individual under 21 years of age from entering a simulcasting facility at a licensed facility except that an individual 18 years of age or older who is employed by a slot machine licensee, a gaming service provider, the Board, or other regulatory or emergency response agency may enter and remain in that area while engaged in the performance of the individual's employment duties.

(2) To train employees and establish policies to:

(i) Identify and remove individuals who are less than 21 years of age and not otherwise authorized to be in the simulcasting facility.

(ii) Immediately notify a casino compliance representative at the licensed facility and the Pennsylvania State Police at a time an individual less than 21 years of age is discovered in the simulcasting facility.

(iii) Refuse wagers from an individual less than 21 years of age.

(iv) Deny check cashing privileges, extensions of credit, complementary goods and services, and other similar privileges and benefits to an individual less than 21 years of age.

(v) Ensure that individuals less than 21 years of age do not receive, either from the casino simulcasting permit holder or an agent thereof, targeted mailing, telemarketing promotions or other promotional materials relating to casino simulcasting activity as provided for under sections 13F01—13F44 of the act (relating to casino simulcasting).

**§ 1001.15. Forfeited winnings.**

(a) An individual under 21 years of age may not collect in any manner or in any proceeding, whether personally or through an agent, winnings or recover losses arising as a result of any casino simulcasting activity.

(b) Winnings incurred by an individual under 21 years of age shall be remitted to the Board to support compulsive and problem gambling programs of the Board. For the purposes of this section, winnings issued to, found on or about, or redeemed by an individual under 21 years of age shall be presumed to constitute winnings and be subject to remittance to the Board.

**§ 1001.16. Signage requirements.**

(a) A casino simulcasting permit holder shall post signs that include a statement providing the following:

(1) "It is unlawful for any individual under 21 years of age to enter or remain in a simulcasting facility. Individuals violating this prohibition will be removed and may be subject to arrest and criminal prosecution."

(2) "If you or someone you know has a gambling problem, help is available. Call (1-800-GAMBLER)."

(b) The signs shall be prominently posted at each entrance and exit of the simulcasting facility.

**§ 1001.17. Restricted areas.**

(a) A casino simulcasting permit holder who wishes to conduct casino simulcasting shall, unless otherwise approved by the Board, in consultation with the Commission, establish and maintain restricted areas, which are not accessible to the general public, including all of the following:

(1) A satellite cage in its simulcasting facility utilized for conducting pari-mutuel wagering and the counting and recording of assets.

(2) Designated areas for the placement and operation of all of the following:

(i) A totalisator system used to pool wagers, records sales, calculate payoffs and display wagering data on a display device.

(ii) Audio/video equipment utilized to receive and transmit simulcast signals.

(b) A casino simulcasting permit holder shall develop and submit to the Board, as part of the submission required under § 1001.19 (relating to casino simulcasting accounting controls and audit protocols), procedures for safeguarding and limiting access to the totalisator system and audio/video equipment utilized to transmit simulcast signals.

**§ 1001.18. Transmission and display of live races.**

(a) Video display monitors shall be installed in approved areas of a licensed facility to deliver simulcast horse race meetings to patrons on video walls and other innovative video display technology.

(b) A casino simulcasting permit holder shall offer all of the following to patrons at a simulcasting facility:

(1) Audio and video coverage of every race upon which patrons of the simulcasting facility are permitted to wager.

(2) Video coverage of race-related information for every race upon which patrons of the simulcasting facility are permitted to wager.

(c) A simulcasting facility shall be equipped with a system permitting the reception of transmissions of races and race-related information without interference or interception.

(d) All simulcast signals shall be encoded, and a casino simulcasting permit holder may not send the signals anywhere other than the licensed facility authorized in the act or this chapter.

(e) A casino simulcasting permit holder shall develop and implement a security system to protect the equipment being used to receive transmissions of races and race-related information from tampering.

(f) If the reception of the video coverage of a race is interrupted, the audio coverage of the race must continue to be presented.

(g) If the reception of the audio coverage of the race is interrupted, the video coverage of the race must continue to be displayed.

(h) If the reception of the audio and video coverage of a race is interrupted during the running of the race, wagering being conducted on future races at the simulcasting facility shall cease until the transmissions are restored. If the interruption of audio or video coverage, or

both, prevents the display of a race at the simulcasting facility, a replay of the interrupted race must be displayed at the simulcasting facility as soon after the restoration as possible.

(i) At least 30 minutes prior to the commencement of wagering at the simulcasting facility, a test of the equipment used to receive and display races and race-related information at the simulcasting facility shall be conducted to ensure that the system is operating properly.

(j) A licensed racing entity which operates interstate or international simulcasting of horse race meetings in this Commonwealth shall have discretion to transmit all or some of the live races conducted at the racetrack to the licensed facility of a licensed gaming entity which has established a simulcasting facility. A race which is transmitted from an in-State sending track may be transmitted to all licensed gaming entities which have established simulcasting facilities.

(k) A licensed gaming entity which establishes a simulcasting facility and conducts casino simulcasting shall, as a condition of continued operation of casino simulcasting, receive all live races which are transmitted by in-State sending tracks.

(l) Casino simulcasting shall be limited to the transmission and display of thoroughbred horse racing and standardbred harness racing permitted under 3 Pa.C.S. §§ 9301—9374 (relating to race horse industry reform).

(m) The Board and the Commission shall have access to the simulcast system or its signal.

**§ 1001.19. Casino simulcasting accounting controls and audit protocols.**

(a) At least 90 days before the commencement of casino simulcasting, a casino simulcasting permit holder shall submit to the Board for approval all internal control systems and audit protocols for the casino simulcasting permit holder's casino simulcasting operations.

(b) A casino simulcasting permit holder's internal controls and audit protocols shall:

(1) Provide for reliable records, accounts and reports of any financial event that occurs in the conduct of casino simulcasting, including reports to the Board and the Commission related to casino simulcasting.

(2) Provide for accurate and reliable financial records related to the conduct of casino simulcasting and the pari-mutuel system of wagering.

(3) Establish procedures and security for the counting, recording and storage of money generated from the conduct of casino simulcasting.

(4) Establish procedures and security standards for the maintenance of telecommunications equipment and video display technology used in connection with the conduct of casino simulcasting.

(5) Establish procedures and rules to govern the conduct of casino simulcasting and the responsibility of employees related to casino simulcasting.

(6) Establish procedures for the collection, recording and deposit of revenue from the conduct of casino simulcasting, including the roles of the Commission, the Department, licensed racing entities and licensed gaming entities in the collection and recording of the revenue.

(7) Establish reporting procedures and records required to ensure that all money generated from casino simulcasting is accounted for and winners' names, when required

under applicable Federal or State law, are filed with the appropriate taxing authorities.

(8) Ensure that the system of pari-mutuel wagering used in the conduct of casino simulcasting is in accordance with 3 Pa.C.S. §§ 9301—9374 (relating to race horse industry reform) and regulations of the Commission promulgated under 3 Pa.C.S. (relating to Agriculture Code).

(9) Ensure, in consultation with the Commission, the proper and timely accounting for and retention of percentages for pari-mutuel pools and the proper and timely distribution of money in any pari-mutuel pool generated from casino simulcasting.

(10) Ensure that all functions, duties and responsibilities related to casino simulcasting are appropriately segregated and performed in accordance with sound financial practices by qualified employees.

(11) Permit use of its simulcasting facility by the Board, the Bureau, the Commission and other persons authorized by the Board and the Commission to facilitate their ability to perform regulatory and oversight functions.

(c) The submission required under subsection (a) must include a detailed description of the casino simulcasting permit holders administrative and accounting procedures related to casino simulcasting, including its written system of internal controls. Each written system of internal controls must include all of the following:

(1) An organizational chart depicting appropriate functions and responsibilities of employees involved in casino simulcasting.

(2) A description of the duties and responsibilities of each position shown on the organizational chart.

(3) The record retention policy of the casino simulcasting permit holder.

(4) The procedure to be utilized to ensure that money generated from the conduct of casino simulcasting is safeguarded, including mandatory counting and recording procedures.

(5) Other items the Board, in consultation with the Commission, may request in writing to be included in the internal controls.

(6) A statement signed by the casino simulcasting permit holder's chief financial officer or other competent person attesting that the signatory believes, in good faith, that the system satisfies the requirements of the act and this section.

(d) Prior to authorizing a casino simulcasting permit holder to commence the conduct of casino simulcasting, the Board, in consultation with the Commission, will review the system of internal controls submitted under subsection (c) to determine whether it conforms to the requirements of this subchapter and whether it provides adequate and effective controls for the conduct of casino simulcasting.

(e) The submission of internal control systems and audit protocols under subsection (a) must also be accompanied by a report from an independent registered public accounting firm licensed to practice in this Commonwealth. The report should express an opinion as to the effectiveness of the design of the submitted system of internal controls over financial reporting and should further express an opinion as to whether the submitted system of internal controls materially deviates from the requirements of applicable laws and regulations, includ-

ing sections 13F01—13F44 of the act (relating to casino simulcasting), this chapter, 3 Pa.C.S. §§ 9301—9374 (relating to race horse industry reform), regulations of the Commission promulgated under 3 Pa.C.S. (relating to Agriculture Code), and the Interstate Horse Racing Act of 1978 (15 U.S.C.A. §§ 3001—3007).

(f) If a casino simulcasting permit holder intends to make a change or amendment to its system of internal controls, it shall submit the change or amendment electronically to the Bureau of Gaming Operations, in a manner prescribed by the Bureau of Gaming Operations. The casino simulcasting permit holder may implement the change or amendment on the 30th calendar day following the filing of a complete submission unless the casino simulcasting permit holder receives written notice tolling the change or amendment in accordance with subsection (g) or written notice from the Board's Executive Director rejecting the change or amendment.

(g) If during the 30-day review period in subsection (f), the Bureau of Gaming Operations, in consultation with the Commission, preliminarily determines that a procedure in a submission contains an insufficiency likely to negatively affect the integrity of casino simulcasting or the control of revenue generated from pari-mutuel wagering, the Bureau of Gaming Operations, by written notice to casino simulcasting permit holder, will:

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

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

(h) Examples of submissions that may contain an insufficiency likely to negatively affect the integrity of casino simulcasting and the pari-mutuel system of wagering include the following:

(1) Submissions that fail to provide information sufficient to permit the review of casino simulcasting or the reconstruction of pari-mutuel wagering handle and pari-mutuel wagering pool distributions.

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

(3) Submissions that do not include forms or other materials referenced in the submission or required under the act or this chapter.

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

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

(i) Whenever a change or amendment has been tolled under subsection (g), the casino simulcasting permit holder may submit a revised change or amendment within 30 days of receipt of the written notice from the Bureau of Gaming Operations. The casino simulcasting permit holder may implement the revised change or amendment upon receipt of written notice of approval from the Board's Executive Director, in consultation with the Commission, or on the 30th calendar day following

the filing of the revision unless the casino simulcasting permit holder receives written notice tolling the change or amendment in accordance with subsection (g) or written notice from the Board's Executive Director, in consultation with the Commission, rejecting the change or amendment.

**§ 1001.20. Casino simulcasting record retention.**

(a) For the purposes of this section, "books, records and documents" means any book, record or document pertaining to, prepared in or generated by the operation of the licensed facility including all forms, reports, accounting records, ledgers, subsidiary records, computer generated data, internal audit records, correspondence and personnel records.

(b) As a condition of continued operation, a casino simulcasting permit holder shall agree to maintain all books, records and documents pertaining to casino simulcasting in a manner and location in this Commonwealth as approved by the Board, in consultation with the Commission. All books, records and documents shall:

(1) Be organized in a manner to clearly depict by separate records the total amount of money contributed to every pari-mutuel pool in accordance with the applicable provisions of 3 Pa.C.S. §§ 9301—9374 (relating to race horse industry reform) and any regulation promulgated under 3 Pa.C.S. §§ 9301—9374.

(2) Be segregated by separate accounts within the licensed gaming entity's books, records and documents, except for any books, records and documents that are common to slot machine operations, table game operations and casino simulcasting, as determined by the Board, in consultation with the Commission.

(3) Be immediately available for inspection upon request of the Board, the Commission, the Bureau, the Department, the Pennsylvania State Police or the Attorney General, or agents thereof, during all hours of operation of the casino simulcasting permit holder's simulcasting facility.

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

(5) Retained in a secure location in the licensed facility that is equipped with a fire suppression system or at another location approved under subsection (d).

(6) Organized and indexed in a manner to provide immediate accessibility to the Board, the Commission, the Bureau, the Department, the Pennsylvania State Police or the Attorney General, or agents thereof.

(7) Destroyed only after expiration of the minimum retention period specified in subsection (c), except that the Board may, in consultation with the Commission,

upon the written request of a casino simulcasting permit holder and for good cause shown, permit the destruction at an earlier date.

(c) Original books, records and documents shall be retained by a casino simulcasting permit holder for a minimum of 5 years.

(d) A casino simulcasting permit holder may request, in writing, that the Board's Executive Director, in consultation with the Commission, approve a location outside the licensed facility to store original books, records and documents. The request must include all of the following:

(1) A detailed description of the proposed location, including security and fire suppression systems.

(2) The procedures under which of the Board, the Commission, the Bureau, the Department, the Pennsylvania State Police or the Attorney General, or agents thereof, shall be able to gain access to the original books, records and documents retained at the location outside the licensed facility.

(e) A casino simulcasting permit holder may request, in writing, that the Board's Executive Director, in consultation with the Commission, approve the electronic copying and storage of original books, records and documents. The request must include representations regarding all of the following:

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

(2) The inspection and quality control methods which will be employed to insure that the electronic books, records and documents exhibit a high degree of legibility and readability when displayed electronically or reproduced on paper.

(3) The availability of a computer and printer for use by the Board, the Commission, the Bureau, the Department, the Pennsylvania State Police or the Attorney General, or agents thereof, at the licensed facility or other location approved by the Board, in consultation with the Commission, and the readiness with which the books, records or documents being stored electronically can be located, read and reproduced.

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

(f) Nothing herein shall be construed as relieving a casino simulcasting permit holder from meeting any obligation to prepare or maintain any book, record or document required by any Federal, State or local government body, authority or agency.

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