

# RULES AND REGULATIONS

## Title 4—ADMINISTRATION

### DEPARTMENT OF GENERAL SERVICES

#### [ 4 PA. CODE CH. 62 ]

#### Committee on Construction Contract Documents

The Department of General Services (Department) rescinds Chapter 62 to read as set forth in Annex A.

Chapter 62 addressed the creation and operation of the Committee on Construction Contract Documents (Committee). The adoption of 62 Pa.C.S. (relating to Commonwealth Procurement Code) (code) in 1998 repealed the legislation that created the Committee. Therefore, the Committee no longer exists and Chapter 62 is obsolete.

#### Authority

The statutory authority for this final-omitted rulemaking is sections 506 and 2401.1(20) of The Administrative Code of 1929 (71 P.S. §§ 186 and 631.1(20)) and section 204(3) of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1204(3)), known as the Commonwealth Documents Law (CDL).

#### Omission of Proposed Rulemaking

Public notice of intention to rescind Chapter 62 under the procedures in sections 201 and 202 of the CDL (45 P.S. §§ 1201 and 1202) has been omitted for good cause as authorized under section 204(3) of the CDL because the Department finds that these procedures are, under the circumstances, unnecessary. The continuing presence of these obsolete regulations serves no purpose and may, in fact, confuse the public.

#### Purpose

The purpose of this final-omitted rulemaking is to rescind obsolete regulations in Chapter 62.

Section 13 of the act of July 22, 1975 (P.L. 75, No. 45) added section 2408(5)(ii) of The Administrative Code of 1929 (71 P.S. § 638(5)(ii)) and authorized the creation of the Committee. The Department promulgated Chapter 62 at 9 Pa.B. 1333 (April 21, 1979). The Committee served in an advisory capacity to the Department from 1975 until 1998.

Section 6(a) of the act of May 15, 1998 (P.L. 358, No. 57), which enacted the code, expressly repealed section 2408 of The Administrative Code of 1929. As a result, the Committee no longer exists and Chapter 62 is rescinded because it is obsolete.

#### Summary

This final-omitted rulemaking rescinds obsolete regulations in Chapter 62.

#### Persons Likely to be Affected

The rescission of the obsolete regulations in Chapter 62 should not affect any group or entity. The continuing presence of these obsolete regulations serves no purpose and may, in fact, confuse the public.

#### Fiscal Impact

Because this final-omitted rulemaking only rescinds obsolete regulations, there will be no fiscal impact.

#### Paperwork Requirements

This final-omitted rulemaking will not result in an increase in paperwork for any individuals or entities.

#### Effective Date

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

#### Public Comment Period

Public notice of intention to rescind the regulations under the procedures in sections 201 and 202 of the CDL has been omitted for good cause as authorized under section 204(3) of the CDL because the Department finds that these procedures are, under the circumstances, unnecessary. The continuing presence of these obsolete regulations serves no purpose and may, in fact, confuse the public.

#### Contact Person

Individuals interested in further information may contact Mary W. Fox, Assistant Counsel, Department of General Services, 603 North Office Building, Harrisburg, PA 17120, (717) 787-6789.

#### Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on January 18, 2018, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Committees on State Government. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P.S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on February 21, 2018, the final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on February 22, 2018, and approved the final-omitted rulemaking.

#### Findings

The Department finds that:

(1) Public notice of the Department's intention to rescind its regulations under the procedures in sections 201 and 202 of the CDL has been omitted under section 204(3) of the CDL because public comment is unnecessary in that Chapter 62 is obsolete.

(2) The amendment of the Department's regulations in the manner provided in this order is necessary and appropriate for the administration of the code.

#### Order

The Department, acting under its authorizing statutes, orders that:

(a) The regulations of the Department, 4 Pa. Code Chapter 62, are amended by deleting §§ 62.1—62.4 to read as set forth in Annex A.

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

(c) The Department shall submit this order and Annex A to IRRC and the House and Senate Committees as required by law.

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

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

CURTIS M. TOPPER,  
Secretary

(Editor’s Note: See 48 Pa.B. 1482 (March 10, 2018) for IRRC’s approval order.)

**Fiscal Note:** 8-21. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 4. ADMINISTRATION**

**PART III. DEPARTMENT OF GENERAL SERVICES**

**Subpart C. CONSTRUCTION AND PROCUREMENT**

**ARTICLE II. CONSTRUCTION**

**CHAPTER 62. (Reserved)**

**§§ 62.1—62.4. (Reserved).**

[Pa.B. Doc. No. 18-388. Filed for public inspection March 16, 2018, 9:00 a.m.]

**Title 4—ADMINISTRATION**

**DEPARTMENT OF GENERAL SERVICES**

**[ 4 PA. CODE CH. 64 ]**

**Selections Committee**

The Department of General Services (Department) rescinds Chapter 64 to read as set forth in Annex A.

Chapter 64 provided the authority for the establishment of a Selection Committee to evaluate and hire design professionals for Department construction projects. The adoption of 62 Pa.C.S. (relating to Commonwealth Procurement Code) (code) in 1998 repealed the legislation under which Chapter 64 was promulgated and selections committees are now established under section 905(c)—(e) of the code (relating to procurement of design professional services). Chapter 64 is therefore obsolete.

*Authority*

The statutory authority for this final-omitted rulemaking is sections 506 and 2401.1(20) of The Administrative Code of 1929 (71 P.S. §§ 186 and 631.1(20)) and section 204(3) of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1204(3)), known as the Commonwealth Documents Law (CDL).

*Omission of Proposed Rulemaking*

Public notice of intention to rescind Chapter 64 under the procedures in sections 201 and 202 of the CDL (45 P.S. §§ 1201 and 1202) has been omitted for good cause as authorized under section 204(3) of the CDL because the Department finds that these procedures are, under the circumstances, unnecessary. The continuing presence of these obsolete regulations serves no purpose and may, in fact, confuse the public.

*Purpose*

The purpose of this final-omitted rulemaking is to rescind obsolete regulations in Chapter 64.

Section 2401.1(19) of The Administrative Code of 1929 provided the authority for the establishment of a Selection Committee to evaluate and hire design professionals for Department construction projects. The Department promulgated Chapter 64 at 11 Pa.B. 1318 (April 18, 1981)

to provide for the procedures and basis for the Selection Committee until the enactment of the code in 1998.

Section 5 of the act of May 15, 1998 (P.L. 358, No. 57), which enacted the code, expressly repealed section 2401.1(19) of The Administrative Code of 1929. As a result, the basis and authority for Chapter 64 no longer exists. Therefore, Chapter 64 is rescinded because it is obsolete.

*Summary*

This final-omitted rulemaking rescinds obsolete regulations in Chapter 64.

*Persons Likely to be Affected*

The rescission of the obsolete regulations in Chapter 64 should not affect any group or entity. The continuing presence of these obsolete regulations serves no purpose and may, in fact, confuse the public.

*Fiscal Impact*

Because this final-omitted rulemaking only rescinds obsolete regulations, there will be no fiscal impact.

*Paperwork Requirements*

This final-omitted rulemaking will not result in an increase in paperwork for any individuals or entities.

*Effective Date*

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

*Public Comment Period*

Public notice of intention to rescind the regulations under the procedures in sections 201 and 202 of the CDL has been omitted for good cause as authorized under section 204(3) of the CDL because the Department finds that these procedures are, under the circumstances, unnecessary. The continuing presence of these obsolete regulations serves no purpose and may, in fact, confuse the public.

*Contact Person*

Individuals interested in further information may contact Mary W. Fox, Assistant Counsel, Department of General Services, 603 North Office Building, Harrisburg, PA 17120, (717) 787-6789.

*Regulatory Review*

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on January 18, 2018, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Committees on State Government. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P.S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on February 21, 2018, the final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on February 22, 2018, and approved the final-omitted rulemaking.

*Findings*

The Department finds that:

- (1) Public notice of the Department’s intention to rescind its regulations under the procedures in sections 201 and 202 of the CDL has been omitted under section

204(3) of the CDL because public comment is unnecessary in that Chapter 64 is obsolete.

(2) The amendment of the Department's regulations in the manner provided in this order is necessary and appropriate for the administration of the code.

#### *Order*

The Department, acting under its authorizing statutes, orders that:

(a) The regulations of the Department, 4 Pa. Code Chapter 64, are amended by deleting §§ 64.1—64.12 to read as set forth in Annex A.

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

(c) The Department shall submit this order and Annex A to IRRC and the House and Senate Committees as required by law.

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

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

CURTIS M. TOPPER,  
*Secretary*

*(Editor's Note: See 48 Pa.B. 1482 (March 10, 2018) for IRRC's approval order.)*

**Fiscal Note:** 8-22. No fiscal impact; (8) recommends adoption.

#### **Annex A**

#### **TITLE 4. ADMINISTRATION**

#### **PART III. DEPARTMENT OF GENERAL SERVICES**

#### **Subpart C. CONSTRUCTION AND PROCUREMENT**

#### **ARTICLE II. CONSTRUCTION**

#### **CHAPTER 64. (Reserved)**

#### **§§ 64.1—64.12. (Reserved).**

[Pa.B. Doc. No. 18-389. Filed for public inspection March 16, 2018, 9:00 a.m.]

## **Title 4—ADMINISTRATION**

### **DEPARTMENT OF GENERAL SERVICES**

#### **[ 4 PA. CODE CH. 67 ]**

#### **Emergency Construction Repairs**

The Department of General Services (Department) rescinds Chapter 67 to read as set forth in Annex A.

Chapter 67 addressed contracting for emergency construction repairs. In 1998, 62 Pa.C.S. (relating to Commonwealth Procurement Code) (code) was adopted. Emergency contracting is now governed by section 516 of the code (relating to emergency procurement). Therefore, Chapter 67 is obsolete.

#### *Authority*

The statutory authority for this final-omitted rulemaking is sections 506 and 2401.1(20) of The Administrative Code of 1929 (71 P.S. §§ 186 and 631.1(20)) and

section 204(3) of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1204(3)), known as the Commonwealth Documents Law (CDL).

#### *Omission of Proposed Rulemaking*

Public notice of intention to rescind Chapter 67 under the procedures in sections 201 and 202 of the CDL (45 P.S. §§ 1201 and 1202) has been omitted for good cause as authorized under section 204(3) of the CDL because the Department finds that these procedures are, under the circumstances, unnecessary. The continuing presence of these obsolete regulations serves no purpose and may, in fact, confuse the public.

#### *Purpose*

The purpose of this final-omitted rulemaking is to rescind obsolete regulations in Chapter 67.

The of July 22, 1975 (P.L. 75, No. 45) amended The Administrative Code of 1929 and authorized the Department to construct, improve, equip, furnish, maintain, acquire and operate a wide range of public works, including all State buildings, institutions, airports, State-aided schools and municipal exhibition halls. The Department promulgated Chapter 67 at 7 Pa.B. 1274 (May 14, 1977). Chapter 67 addressed the procurement and expeditious processing of contract awards in excess of \$25,000 on completed construction projects in emergency situations when conditions hazardous to the Commonwealth and its citizens required an immediate response.

Section 6(a) of the act of May 15, 1998 (P.L. 358, No. 57), which enacted the code, expressly repealed sections 638, 642 and 643 of The Administrative Code of 1929. Emergency contracting is now governed by section 516 of the code. As a result, the basis and authority for Chapter 67 no longer exists, having been superseded. Chapter 67 is rescinded because it is obsolete.

#### *Summary*

This final-omitted rulemaking rescinds obsolete regulations in Chapter 67.

#### *Persons Likely to be Affected*

The rescission of the obsolete regulations in Chapter 67 should not affect any group or entity. The continuing presence of these obsolete regulations serves no purpose and may, in fact, confuse the public.

#### *Fiscal Impact*

Because this final-omitted rulemaking only rescinds obsolete regulations, there will be no fiscal impact.

#### *Paperwork Requirements*

This final-omitted rulemaking will not result in an increase in paperwork for any individuals or entities.

#### *Effective Date*

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

#### *Public Comment Period*

Public notice of intention to rescind the regulations under the procedures in sections 201 and 202 of the CDL has been omitted for good cause as authorized under section 204(3) of the CDL because the Department finds that these procedures are, under the circumstances, unnecessary. The continuing presence of these obsolete regulations serves no purpose and may, in fact, confuse the public.



*Contact Person*

Individuals interested in further information may contact Mary W. Fox, Assistant Counsel, Department of General Services, 603 North Office Building, Harrisburg, PA 17120, (717) 787-6789.

*Regulatory Review*

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on January 18, 2018, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Committees on State Government. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P.S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on February 21, 2018, the final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on February 22, 2018, and approved the final-omitted rulemaking.

*Findings*

The Department finds that:

(1) Public notice of the Department’s intention to rescind its regulations under the procedures in sections 201 and 202 of the CDL has been omitted under section 204(c) of the CDL because public comment is unnecessary in that Chapter 67 is obsolete.

(2) The amendment of the Department’s regulations in the manner provided in this order is necessary and appropriate for the administration of the code.

*Order*

The Department, acting under its authorizing statutes, orders that:

(a) The regulations of the Department, 4 Pa. Code Chapter 67, are amended by deleting §§ 67.1—67.11 to read as set forth in Annex A.

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

(c) The Department shall submit this order and Annex A to IRRC and the House and Senate Committees as required by law.

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

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

CURTIS M. TOPPER,  
*Secretary*

*(Editor’s Note:* See 48 Pa.B. 1482 (March 10, 2018) for IRRC’s approval order.)

**Fiscal Note:** 8-23. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 4. ADMINISTRATION**  
**PART III. DEPARTMENT OF GENERAL SERVICES**  
**Subpart C. CONSTRUCTION AND PROCUREMENT**  
**ARTICLE II. CONSTRUCTION**  
**CHAPTER 67. (Reserved)**

§§ 67.1—67.11. (Reserved).

[Pa.B. Doc. No. 18-390. Filed for public inspection March 16, 2018, 9:00 a.m.]

**Title 4—ADMINISTRATION**  
**DEPARTMENT OF GENERAL SERVICES**  
**[ 4 PA. CODE CH. 69 ]**  
**Methods of Awarding Contracts**

The Department of General Services (Department) rescinds Chapter 69 to read as set forth in Annex A.

Chapter 69 established procedures, defined responsibilities and provided specific guidance for awarding Commonwealth contracts for the purchase of goods and supplies. The subject matter of Chapter 69 is now covered by 62 Pa.C.S. (relating to Commonwealth Procurement Code) (code). Therefore, Chapter 69 is obsolete.

*Authority*

The statutory authority for this final-omitted rulemaking is sections 506 and 2401.1(20) of The Administrative Code of 1929 (71 P.S. §§ 186 and 631.1(20)) and section 204(3) of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1204(3)), known as the Commonwealth Documents Law (CDL).

*Omission of Proposed Rulemaking*

Public notice of intention to rescind Chapter 69 under the procedures in sections 201 and 202 of the CDL (45 P.S. §§ 1201 and 1202) has been omitted for good cause as authorized under section 204(3) of the CDL because the Department finds that these procedures are, under the circumstances, unnecessary. The continuing presence of these obsolete regulations serves no purpose and may, in fact, confuse the public.

*Purpose*

The purpose of this final-omitted rulemaking is to rescind obsolete regulations in Chapter 69.

Chapter 69 was adopted under sections 507, 2403 and 2409 of The Administrative Code of 1929 (71 P.S. §§ 187, 633 and 639) and section 2401.1 of The Administrative Code of 1929, which authorized the Department to engage in various types of contracting. The Department promulgated Chapter 69 at 10 Pa.B. 4663 (December 13, 1980). Chapter 69 related to the methods of awarding contracts.

Section 4 of the act of May 15, 1998 (P.L. 358, No. 57), which established the code, states that “[e]xcept as otherwise provided, this act is intended to provide a complete and exclusive procedure to govern the procurement by Commonwealth agencies of supplies, services and construction, including the disposal of surplus supplies.” The methods of awarding contracts listed in Chapter 69 are now addressed by an equivalent section in sections 501—564 of the code (relating to source selection and contract formation). Specifically, the definitions in § 69.1

are now listed in section 501 of the code (relating to definitions). Methods of awarding contracts in § 69.3 are now addressed in section 511 of the code (relating to methods of source selection). Competitive sealed bidding in § 69.4 is now addressed in section 512 of the code (relating to competitive sealed bidding). Multiple award contracts in § 69.5 are now addressed in section 517 of the code (relating to multiple awards). Competitive sealed proposals in § 69.6 are now addressed in section 513 of the code (relating to competitive sealed proposals). Sole source procurement in § 69.7 is now addressed in section 515 of the code (relating to sole source procurement). Emergency procurement in § 69.8 is now addressed in section 516 of the code (relating to emergency procurement). Small purchases in § 69.9 are now addressed in section 514 of the code (relating to small procurements). Because the subject matter of each of these regulatory provisions is now addressed by statute, Chapter 69 is rescinded to ensure clarity regarding the methods of source selections.

Since the subject matter of Chapter 69 is covered by the code, Chapter 69 is now obsolete.

#### *Summary*

This final-omitted rulemaking rescinds obsolete regulations in Chapter 69.

#### *Persons Likely to be Affected*

The rescission of the obsolete regulations in Chapter 69 should not affect any group or entity. The continuing presence of these obsolete regulations serves no purpose and may, in fact, confuse the public.

#### *Fiscal Impact*

Because this final-omitted rulemaking only rescinds obsolete regulations, there will be no fiscal impact.

#### *Paperwork Requirements*

This final-omitted rulemaking will not result in an increase in paperwork for any individuals or entities.

#### *Effective Date*

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

#### *Public Comment Period*

Public notice of intention to rescind the regulations under the procedures in sections 201 and 202 of the CDL has been omitted for good cause as authorized under section 204(3) of the CDL because the Department finds that these procedures are, under the circumstances, unnecessary. The continuing presence of these obsolete regulations serves no purpose and may, in fact, confuse the public.

#### *Contact Person*

Individuals interested in further information may contact Mary W. Fox, Assistant Counsel, Department of General Services, 603 North Office Building, Harrisburg, PA 17120, (717) 787-6789.

#### *Regulatory Review*

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on January 18, 2018, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Committees on State Government. On the same date, the regulations were

submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P.S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on February 21, 2018, the final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on February 22, 2018, and approved the final-omitted rulemaking.

#### *Findings*

The Department finds that:

(1) Public notice of the Department's intention to rescind its regulations under the procedures in sections 201 and 202 of the CDL has been omitted under section 204(c) of the CDL because public comment is unnecessary in that Chapter 69 is obsolete.

(2) The amendment of the Department's regulations in the manner provided in this order is necessary and appropriate for the administration of the code.

#### *Order*

The Department, acting under its authorizing statutes, orders that:

(a) The regulations of the Department, 4 Pa. Code Chapter 69, are amended by deleting §§ 69.1—69.9 to read as set forth in Annex A.

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

(c) The Department shall submit this order and Annex A to IRRC and the House and Senate Committees as required by law.

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

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

CURTIS M. TOPPER,  
*Secretary*

*(Editor's Note: See 48 Pa.B. 1482 (March 10, 2018) for IRRC's approval order.)*

**Fiscal Note:** 8-25. No fiscal impact; (8) recommends adoption.

#### **Annex A**

#### **TITLE 4. ADMINISTRATION**

#### **PART III. DEPARTMENT OF GENERAL SERVICES**

#### **Subpart C. CONSTRUCTION AND PROCUREMENT**

#### **ARTICLE III. PROCUREMENT**

#### **CHAPTER 69. (Reserved)**

#### **§§ 69.1—69.9. (Reserved).**

[Pa.B. Doc. No. 18-391. Filed for public inspection March 16, 2018, 9:00 a.m.]

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD

[ 25 PA. CODE CH. 250 ]

#### Administration of the Land Recycling Program

The Environmental Quality Board (Board) amends Chapter 250 (relating to administration of Land Recycling Program) to correct transcription errors for Aldrin in Appendix A, Table 1, and toxicity values for beryllium and cadmium in Appendix A, Table 5B. These corrections affect the calculated medium-specific concentrations (MSC) for beryllium and cadmium in Appendix A, Table 4A, which are also corrected. These corrections are set forth in Annex A.

Notice of proposed rulemaking is omitted under section 204 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1204), known as the Commonwealth Documents Law (CDL). Section 204(3) of the CDL provides that an agency may omit the notice of proposed rulemaking if “the agency for good cause finds. . .that procedures specified in sections 201 and 202 are in the circumstances impracticable, unnecessary, or contrary to the public interest.” Public notice and comment are unnecessary and contrary to the public interest for the amendments in this final-omitted rulemaking. The relevant MSCs are a product of a standard method of calculation in Chapter 250. The Board sought comments on this method during the prior rulemaking and no comments were received on this method. See 46 Pa.B. 5655 (August 27, 2016). This final-omitted rulemaking does not change the method by which the calculation is made. Instead, this final-omitted rulemaking corrects an error that the Department of Environmental Protection (Department) made in the transcription of the result of the Aldrin calculation and corrects the inputs to the beryllium and cadmium calculations. Additional public notice and comment would not alter the need to correct these errors and is therefore unnecessary. In addition, these corrections will ensure that any remediation of Aldrin, beryllium or cadmium conforms to current science regarding the protection of human health and is consistent with Chapter 250, which is in the public interest.

This final-omitted rulemaking was adopted by the Board at its meeting of December 12, 2017.

#### A. Effective Date

This final-omitted rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

#### B. Contact Persons

For further information contact Troy Conrad, Program Manager, Land Recycling Program, P.O. Box 8471, Rachel Carson State Office Building, Harrisburg, PA 17105-8471, (717) 783-7816; or Keith Salador, Assistant Counsel, Bureau of Regulatory Counsel, P.O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 783-8075. Persons with a disability may use the Pennsylvania AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-omitted rulemaking is available on the Department’s web site at [www.dep.pa.gov](http://www.dep.pa.gov) (select “Public Participation,” then “Environmental Quality Board (EQB)”).

#### C. Statutory Authority

This final-omitted rulemaking is being made under the authority of sections 104(a) and 303(a) of the Land

Recycling and Environmental Remediation Standards Act (act) (35 P.S. §§ 6026.104(a) and 6026.303(a)) and section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20). Section 104(a) of the act authorizes the Board to adopt Statewide health standards and appropriate mathematically valid statistical tests to define compliance with the act. Section 303(a) of the act authorizes the Board to promulgate Statewide health standards for regulated substances for each environmental medium and methods used to calculate the standards. Section 1920-A of The Administrative Code of 1929 authorizes the Board to formulate, adopt and promulgate rules and regulations that are necessary for the proper work of the Department.

#### D. Background and Purpose

The Statewide health standard MSCs are in Appendix A. Three errors in MSC values were discovered after the most recent amendments became effective on August 27, 2016.

#### Aldrin

Toxicity values and physical/chemical properties in Appendix A, Tables 5A and 5B are used along with ingestion and inhalation exposure parameters presented in §§ 250.306 and 250.307 (relating to ingestion numeric values; and inhalation numeric values) to calculate the numeric values presented in Appendix A, Tables 1—4. The equations and methodology used to calculate ingestion and inhalation numeric values are also provided in §§ 250.306 and 250.307, respectively. The equations have been converted to formulas in an Excel spreadsheet which is used to calculate the numeric values in Appendix A, Tables 1—4. The calculated numeric values are transcribed from the Excel spreadsheet into Word tables which are used for rulemaking.

The MSC for Aldrin in groundwater for an aquifer with total dissolved solids (TDS) of less than or equal to 2,500 milligrams per liter used for residential purposes is 0.043 microgram per liter ( $\mu\text{L}$ ), but was incorrectly transcribed as 0.43  $\mu\text{L}$ . The Aldrin MSC for groundwater under “Used Aquifers, TDS  $\leq$  2500, R” in Appendix A, Table 1 has been corrected.

#### Beryllium and cadmium

Section 303(c) of the act requires the Department to develop risk-based Statewide health standards using valid scientific methods, reasonable exposure pathways assumptions, and exposure factors for residential and nonresidential land use that are no more stringent than the standard default exposure factors established by the United States Environmental Protection Agency. The Department calculates MSCs based on Nationally recognized, peer-reviewed toxicological data from the sources in § 250.605 (relating to sources of toxicity information). The toxicity value sources in § 250.605 are presented in a hierarchy of tiers where the first-tier source is preferred over the second-tier source and the second-tier source is preferred over the third-tier source. The third tier consists of multiple sources which all have the same level of preference. The toxicity values are used along with the physical/chemical properties from Appendix A, Tables 5A and 5B and the ingestion and inhalation exposure parameters and equations from §§ 250.306 and 250.307 to calculate the numeric values. The same procedure described for Aldrin using the Excel spreadsheet is used to calculate the numeric values for beryllium and cadmium. The calculated numeric values are transcribed from the Excel spreadsheet into Word tables which are used for rulemaking.



The toxicity value used for the ingestion model is the Oral Cancer Slope Factor ( $CSF_o$ ), and the toxicity value used for the inhalation model is the Inhalation Unit Risk (IUR). IUR is calculated using an Inhalation Cancer Slope Factor ( $CSF_i$ ) and accounts for the inhalation rate of a receptor.  $CSF_o$  values are based on oral exposure (ingestion) while  $CSF_i$  values are based on exposure from inhalation. These toxicity values are used along with current exposure parameters to calculate numeric values used to determine the MSCs. Exposure parameters, such as exposure frequency, soil and groundwater ingestion rates, body weight, and the like, are specific to soil or groundwater exposure and to residential or nonresidential exposure scenarios. The equations and methodology used to calculate ingestion and inhalation numeric values are provided in §§ 250.306 and 250.307, respectively.

During the development of the MSCs for soil in the amendments to Chapter 250 published at 46 Pa.B. 5655, the  $CSF_i$  values were incorrectly interpreted as  $CSF_o$  values for both beryllium and cadmium. This error resulted in the incorrect toxicity values to be posted in Appendix A, Table 5B, which resulted in the direct contact soil MSCs for these compounds to be artificially low.

Thus, the  $CSF_o$  values of  $8.4 \text{ (mg/kg/day)}^{-1}$  and  $15 \text{ (mg/kg/day)}^{-1}$  for beryllium and cadmium, respectively, have been deleted from Appendix A, Table 5B because they are not actually oral toxicity values. Changes to Appendix A, Table 4A, regarding direct contact numeric values for inorganic regulated substances in soil, include correcting the beryllium residential MSC value from 2 milligrams per kilogram (mg/kg) to 440 mg/kg and the nonresidential surface soil MSC value from 11 mg/kg to 6,400 mg/kg. The cadmium residential MSC value changed from 1.2 mg/kg to 110 mg/kg, and the nonresidential surface soil MSC value changed from 6 mg/kg to 1,600 mg/kg.

This final-omitted rulemaking was discussed with, and received the support of, the Cleanup Standards Scientific Advisory Board at its November 16, 2016, meeting.

#### E. Summary of the Final-Omitted Rulemaking

##### Appendix A, Tables 1, 4A and 5B

The Aldrin MSC for groundwater under "Used Aquifers, TDS  $\leq$  2500, R" in Appendix A, Table 1 has been changed from 0.43  $\mu\text{L}$  to 0.043  $\mu\text{L}$ . Changes to Appendix A, Table 4A include correcting the beryllium residential MSC value from 2 mg/kg to 440 mg/kg and the nonresidential surface soil MSC value from 11 mg/kg to 6,400 mg/kg. The cadmium residential MSC value changed from 1.2 mg/kg to 110 mg/kg, and the nonresidential surface soil MSC value changed from 6 mg/kg to 1,600 mg/kg. The  $CSF_o$  values of  $8.4 \text{ (mg/kg/day)}^{-1}$  and  $15 \text{ (mg/kg/day)}^{-1}$  for beryllium and cadmium, respectively, have been deleted from Appendix A, Table 5B.

#### F. Benefits, Costs and Compliance

##### Benefits

Correcting errors in the toxicity values and the MSCs in Chapter 250 serve the public and the regulated community as they provide accurate information needed for remediating contaminated sites. Having access to that information allows the public to know the acceptable level of contamination at a site based on the intended use of the property, and it provides remediators with a uniform endpoint to the remediation process.

##### Compliance costs

This final-omitted rulemaking is not expected to add costs, overall, to the cleanup of contaminated sites under the Land Recycling Program. The decrease in the Aldrin MSC will only impact ten sites. Remediators of these sites can use either the background standard or the site-specific standard if the reduction in the Aldrin MSC impacts their project. The beryllium and cadmium corrections result in increases in their respective MSC values and are not anticipated to have an adverse impact on the regulated community.

##### Compliance assistance plan

The Land Recycling Program will disseminate information concerning these corrections using the Department's web site and e-mails to environmental consultants involved in the Land Recycling Program.

##### Paperwork requirements

This final-omitted rulemaking does not require forms or reports.

#### G. Pollution Prevention

The Pollution Prevention Act of 1990 (42 U.S.C.A. §§ 13101—13109) established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials and the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance requirements.

During remediation of a contaminated site, potential sources of pollution are often removed to attain the standards in the act, thus eliminating or minimizing the potential for continued migration.

#### H. Sunset Review

The Board is not establishing a sunset date for these regulations since they are needed for the Department to carry out its statutory authority. The Department will continue to closely monitor these regulations for their effectiveness and recommend updates to the Board as necessary.

#### I. Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on January 22, 2018, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Environmental Resources and Energy Committees. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P.S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on February 21, 2018, the final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on February 22, 2018, and approved the final-omitted rulemaking.

*J. Findings*

The Board finds that:

- (1) The amendments are appropriate to implement the Land Recycling Program.
- (2) Use of the omission of notice of proposed rule-making procedure is appropriate because the proposed rulemaking procedures in sections 201 and 202 of the CDL (45 P.S. §§ 1201 and 1202) are, in this instance, unnecessary and contrary to the public interest.
- (3) These amendments are necessary and appropriate for administration and enforcement of the authorizing acts identified in section C of this preamble and in the public interest.

*K. Order*

The Board, acting under the authorizing statutes, orders that:

- (a) The regulations of the Department, 25 Pa. Code Chapter 250, are amended by amending Appendix A, Tables 1, 4A and 5B to read as set forth in Annex A, with ellipses referring to the existing text of the tables.
- (b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.
- (c) The Chairperson of the Board shall submit this order and Annex A to IRRC and the Senate and House

Environmental Resources and Energy Committees as required under the Regulatory Review Act (71 P.S. §§ 745.1—745.14).

- (d) The Chairperson of the Board shall certify this order and Annex A, as approved for legality and form, and deposit them with the Legislative Reference Bureau, as required by law.
- (e) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

PATRICK McDONNELL,  
*Chairperson*

*(Editor's Note: See 48 Pa.B. 1482 (March 10, 2018) for IRRC's approval order.)*

**Fiscal Note:** 7-538. No fiscal impact; (8) recommends adoption.

**Annex A**  
**TITLE 25. ENVIRONMENTAL PROTECTION**  
**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**Subpart D. ENVIRONMENTAL HEALTH AND SAFETY**  
**ARTICLE VI. GENERAL HEALTH AND SAFETY**  
**CHAPTER 250. ADMINISTRATION OF LAND RECYCLING PROGRAM**  
**Appendix A**



Table 1—Medium-Specific Concentrations (MSCs) for Organic Regulated Substances in Groundwater

Regulated Substance	CASRN	Used Aquifers						Nonuse Aquifers	
		TDS < 2500			TDS > 2500			R	NR
		R	NR	R	NR	R	NR		
ACENAPHTHENE	83-32-9	2,500 G	3,800 S	3,800 S	3,800 S	3,800 S	3,800 S	NR	
ACENAPHTHYLENE	208-96-8	2,500 G	7,000 G	16,000 S	16,000 S	16,000 S	16,000 S	16,000 S	
ACEPHATE	30560-19-1	84 G	390 G	8,400 G	39,000 G	84 G	84 G	390 G	
ACETALDEHYDE	75-07-0	19 N	79 N	1,900 N	7,900 N	19 N	19 N	79 N	
ACETONE	67-64-1	38,000 G	110,000 G	3,800,000 G	11,000,000 G	380,000 G	380,000 G	1,100,000 G	
ACETONITRILE	75-05-8	130 N	530 N	13,000 N	53,000 N	1,300 N	1,300 N	5,300 N	
ACETOPHENONE	98-86-2	4,200 G	12,000 G	420,000 G	1,200,000 G	4,200 G	4,200 G	12,000 G	
ACETYLAMINOFLUORENE, 2-(2AAF)	53-96-3	0.19 G	0.89 G	19 G	89 G	190 G	190 G	890 G	
ACROLEIN	107-02-8	0.042 N	0.18 N	4.2 N	18 N	0.42 N	0.42 N	1.8 N	
ACRYLAMIDE	79-06-1	0.19 N	2.5 N	19 N	250 N	0.19 N	0.19 N	2.5 N	
ACRYLIC ACID	79-10-7	2.1 N	8.8 N	210 N	880 N	210 N	210 N	880 N	
ACRYLONITRILE	107-13-1	0.72 N	3.7 N	72 N	370 N	72 N	72 N	370 N	
ALACHLOR	15972-60-8	2 M	2 M	200 M	200 M	2 M	2 M	2 M	
ALDICARB	116-06-3	3 M	3 M	300 M	300 M	3,000 M	3,000 M	3,000 M	
ALDICARB SULFONE	1646-88-4	2 M	2 M	200 M	200 M	2 M	2 M	2 M	
ALDICARB SULFOXIDE	1646-87-3	4 M	4 M	400 M	400 M	4 M	4 M	4 M	
ALDRIN	309-00-2	0.043 G	0.2 G	4.3 G	20 G	20 S	20 S	20 S	
ALLYL ALCOHOL	107-18-6	0.21 N	0.88 N	21 N	88 N	21 N	21 N	88 N	
AMETRYN	834-12-8	60 H	60 H	6,000 H	6,000 H	60 H	60 H	60 H	
AMINOBIHENYL, 4-	92-67-1	0.035 G	0.16 G	3.5 G	16 G	35 G	35 G	160 G	
AMITROLE	61-82-5	0.78 G	3.6 G	78 G	360 G	780 G	780 G	3,600 G	
AMMONIA	7664-41-7	30,000 H	30,000 H	3,000,000 H	3,000,000 H	30,000 H	30,000 H	30,000 H	
AMMONIUM SULFAMATE	7773-06-0	2,000 H	2,000 H	200,000 H	200,000 H	2,000 H	2,000 H	2,000 H	
ANILINE	62-53-3	2.1 N	8.8 N	210 N	880 N	2.1 N	2.1 N	8.8 N	
ANTHRACENE	120-12-7	66 S	66 S	66 S	66 S	66 S	66 S	66 S	
ATRAZINE	1912-24-9	3 M	3 M	300 M	300 M	3 M	3 M	3 M	
AZINPHOS-METHYL (GUTHION)	86-50-0	130 G	350 G	13,000 G	32,000 S	130 G	130 G	350 G	
BAYGON (PROPOXUR)	114-26-1	3 H	3 H	300 H	300 H	3,000 H	3,000 H	3,000 H	
BENOMYL	17804-35-2	2,000 S	2,000 S	2,000 S	2,000 S	2,000 S	2,000 S	2,000 S	
BENTAZON	25057-89-0	200 H	200 H	20,000 H	20,000 H	200 H	200 H	200 H	
BENZENE	71-43-2	5 M	5 M	500 M	500 M	500 M	500 M	500 M	
BENZIDINE	92-87-5	0.00098 G	0.015 G	0.098 G	1.5 G	0.98 G	0.98 G	15 G	
BENZO[A]ANTHRACENE	56-55-3	0.32 G	4.9 G	11 S	11 S	11 S	11 S	11 S	
BENZO[A]PYRENE	50-32-8	0.2 M	0.2 M	3.8 S	3.8 S	3.8 S	3.8 S	3.8 S	

All concentrations in µg/L  
M = Maximum Contaminant Level  
N = Inhalation  
R = Residential  
H = Lifetime health advisory level  
S = Aqueous solubility cap  
NR = Non-Residential  
G = Ingestion  
THMs—The values listed for trihalomethanes (THMs) are the total for all THMs combined.  
HAAs—The values listed for haloacetic acids (HAAs) are the total for all HAAs combined.

\* \* \* \* \*

Table 4—Medium-Specific Concentrations (MSCs) for Inorganic Regulated Substances in Soil  
A. Direct Contact Numeric Values

REGULATED SUBSTANCE	CASRN	Residential MSC 0-15 feet		Nonresidential MSCs			
				Surface Soil 0-2 feet		Subsurface Soil 2-15 feet	
ALUMINUM	7429-90-5	190,000	C	190,000	C	190,000	C
ANTIMONY	7440-36-0	88	G	1,300	G	190,000	C
ARSENIC	7440-38-2	12	G	61	G	190,000	C
BARIUM AND COMPOUNDS	7440-39-3	44,000	G	190,000	C	190,000	C
BERYLLIUM	7440-41-7	440	G	6,400	G	190,000	C
BORON AND COMPOUNDS	7440-42-8	44,000	G	190,000	C	190,000	C
CADMIUM	7440-43-9	110	G	1,600	G	190,000	C
CHROMIUM III	16065-83-1	190,000	C	190,000	C	190,000	C
CHROMIUM VI	18540-29-9	4	G	220	G	20,000	N
COBALT	7440-48-4	66	G	960	G	190,000	N
COPPER	7440-50-8	8,100	G	120,000	G	190,000	C
CYANIDE, FREE	57-12-5	130	G	1,900	G	190,000	C
FLUORIDE	16984-48-8	8,800	G	130,000	G	190,000	C
IRON	7439-89-6	150,000	G	190,000	C	190,000	C
LEAD	7439-92-1	500	U	1,000	S	190,000	C
LITHIUM	7439-93-2	440	G	6,400	G	190,000	C
MANGANESE	7439-96-5	10,000	G	150,000	G	190,000	C
MERCURY	7439-97-6	35	G	510	G	190,000	C
MOLYBDENUM	7439-98-7	1,100	G	16,000	G	190,000	C
NICKEL	7440-02-0	4,400	G	64,000	G	190,000	C
PERCHLORATE	7790-98-9	150	G	2,200	G	190,000	C
SELENIUM	7782-49-2	1,100	G	16,000	G	190,000	C
SILVER	7440-22-4	1,100	G	16,000	G	190,000	C
STRONTIUM	7440-24-6	130,000	G	190,000	C	190,000	C
THALLIUM	7440-28-0	2	G	32	G	190,000	C
TIN	7440-31-5	130,000	G	190,000	C	190,000	C
VANADIUM	7440-62-2	15	G	220	G	190,000	C
ZINC	7440-66-6	66,000	G	190,000	C	190,000	C

All concentrations in mg/kg  
 R—Residential  
 NR—Non-Residential  
 G—Ingestion  
 N—Inhalation  
 C—Cap  
 U—UBK Model  
 S—SEGH Model  
 NA—Not Applicable

Table 5—Physical and Toxicological Properties  
B. Inorganic Regulated Substances

Regulated Substance	CAS	RfDo (mg/kg-d)		CSFo (mg/kg-d) <sup>1</sup>		RfCi (mg/m <sup>3</sup> )		IUR (ug/m <sup>3</sup> ) <sup>1</sup>		Kd
ALUMINUM	7429-90-5	1	P			0.005	P			9.9
ANTIMONY	7440-36-0	0.0004	I							45
ARSENIC	7440-38-2	0.0003	I	1.5	I	0.000015	C	0.0043	I	29
BARIUM AND COMPOUNDS	7440-39-3	0.2	I			0.0005	H			41
BERYLLIUM	7440-41-7	0.002	I			0.00002	I	0.0024	I	790
BORON AND COMPOUNDS	7440-42-8	0.2	I			0.02	H			3
CADMIUM	7440-43-9	0.0005	I			0.00001	D	0.0018	I	75
CHROMIUM III	16065-83-1	1.5	I							1,800,000
CHROMIUM VI	18540-29-9	0.003	I	0.42	C	0.000008	I	0.084	I	19
COBALT	7440-48-4	0.0003	P			0.000006	P	0.009	P	45
COPPER	7440-50-8	0.037	H							430
CYANIDE, FREE	57-12-5	0.0006	I			0.0008	I			9.9
FLUORIDE	16984-48-8	0.04	C			0.013	C			
IRON	7439-89-6	0.7	P							25
LEAD	7439-92-1			0.0085	C			0.000012	C	900
LITHIUM	7439-93-2	0.002	P							300
MANGANESE	7439-96-5	0.047	I			0.00005	I			65
MERCURY	7439-97-6	0.00016	C			0.0003	I			52
MOLYBDENUM	7439-98-7	0.005	I							20
NICKEL	7440-02-0	0.02	I			0.00009	D	0.00024	Is	65
NITRATE NITROGEN	14797-55-8	1.6	I							
NITRITE NITROGEN	14797-65-0	0.1	I							
PERCHLORATE	7790-98-9	0.0007	I							0
SELENIUM	7782-49-2	0.005	I			0.02	C			5
SILVER	7440-22-4	0.005	I							8.3
STRONTIUM	7440-24-6	0.06	I							
THALLIUM	7440-28-0	0.00001	X							71
TIN	7440-31-5	0.6	H							250
VANADIUM	7440-62-2	0.00007	P			0.0001	D			1,000
ZINC	7440-66-6	0.3	I							62

Toxicity Value Sources:  
 C = California EPA Cancer Potency Factor  
 D = ATSDR Minimal Risk Level  
 H = Health Effects Assessment Summary Table (HEAST)  
 I = Integrated Risk Information System (IRIS)  
 P = EPA Provisional Peer-Reviewed Toxicity Value  
 s = surrogate

[Pa.B. Doc. No. 18-392. Filed for public inspection March 16, 2018, 9:00 a.m.]

## Title 28—HEALTH AND SAFETY

### DEPARTMENT OF HEALTH [ 28 PA. CODE CH. 1210 ]

#### Medical Marijuana; Clinical Registrants and Academic Clinical Research Centers; Temporary Regulations

The Department of Health (Department) is publishing temporary regulations in Chapter 1210 (relating to clinical registrants and academic clinical research centers—

temporary regulations) to read as set forth in Annex A. The temporary regulations are published under the Medical Marijuana Act (act) (35 P.S. §§ 10231.101—10231.2110). Section 1107 of the act (35 P.S. § 10231.1107) specifically provides that, to facilitate the prompt implementation of the act, the Department may promulgate temporary regulations that 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 (CDL), the Regulatory Review Act (71 P.S. §§ 745.1—745.14) and sections 204(b) and 301(10) of the Commonwealth Attorneys Act (71 P.S. §§ 732-204(b) and 732-301(10)).



To implement the Medical Marijuana Program, the Department will be periodically publishing temporary regulations regarding various sections of the act.

Chapter 1210 pertains to clinical registrants and academic clinical research centers in this Commonwealth who wish to participate in the Medical Marijuana Program. The temporary regulations for clinical registrants and academic clinical research centers will expire on March 17, 2020.

Interested persons are invited to submit written comments, suggestions or objections regarding the temporary regulations to John J. Collins, Office of Medical Marijuana, Department of Health, Room 628, Health and Welfare Building, 625 Forster Street, Harrisburg, PA 17120, (717) 547-3047, RA-DHMedMarijuana@pa.gov. Persons with a disability who wish to submit comments, suggestions or objections regarding the temporary regulations or who require an alternative format of the temporary regulations (for example, large print, audiotape or Braille) may do so by using the previous contact information. Speech and/or hearing impaired persons may call the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

RACHEL L. LEVINE, MD,  
Acting Secretary

*(Editor's Note: Title 28 of the Pennsylvania Code is amended by adding temporary regulations in §§ 1210.21—1210.37 to read as set forth in Annex A.)*

**Fiscal Note:** 10-203. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 28. HEALTH AND SAFETY  
PART IX. MEDICAL MARIJUANA**

**CHAPTER 1210. CLINICAL REGISTRANTS AND  
ACADEMIC CLINICAL RESEARCH  
CENTERS—TEMPORARY REGULATIONS**

- Sec. 1210.21. Definitions.
- 1210.22. Clinical registrants generally.
- 1210.23. Limitation on permits.
- 1210.24. Capital requirements.
- 1210.25. Certifying ACRCs.
- 1210.26. Revocation of a certification of an ACRC.
- 1210.27. Application for approval of a clinical registrant.
- 1210.28. Request for conversion of an existing permit.
- 1210.29. Practices and procedures of institutional review boards.
- 1210.30. Approval or denial of an application for approval of a clinical registrant.
- 1210.31. Renewal of approval of a clinical registrant.
- 1210.32. Revocation of approval of a clinical registrant.
- 1210.33. Dispensing and tracking medical marijuana products.
- 1210.34. Prohibition.
- 1210.35. Reporting requirements.
- 1210.36. Sale or exchange.
- 1210.37. Appeals.

**§ 1210.21. Definitions.**

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

**ACRC**—An accredited medical school in this Commonwealth that operates or partners with an acute care hospital licensed and operating in this Commonwealth.

**Accredited medical school**—An institution that is:

- (i) Located in this Commonwealth.
- (ii) Accredited by the Liaison Committee of Medical Education or the Commission on Osteopathic College Accreditation.

**Acute care hospital**—A facility having an organized medical staff that provides equipment and services primarily for inpatient medical care and other related services to persons who require definitive diagnosis or treatment, or both, for injury, illness, pregnancy or other disability and is licensed by the Department to operate as a hospital in this Commonwealth under the Health Care Facilities Act (35 P.S. §§ 448.101—448.904b) and the regulations promulgated thereunder.

**Applicant**—A person who submits an application to the Department to become an approved clinical registrant.

**Approved clinical registrant**—An entity that applied for and received the approval of the Department to do all of the following:

- (i) Hold a permit as both a grower/processor and a dispensary.
- (ii) Enter into a research contract with a certified ACRC.

**Approved research project**—A research project that has been approved by an institutional review board and submitted by an approved clinical registrant to the Department.

**Certified ACRC**—An ACRC that has applied for and has been certified by the Department to enter into a research contract with an approved clinical registrant.

**Institution of higher education**—A community college, State-owned institution, State-related institution, or private college or university approved by the Department of Education.

**Institutional review board**—Any board, committee or group designated by a certified ACRC that reviews and evaluates the anticipated scope of an approved clinical registrant's research involving patients or patient data.

**Research**—Any systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.

**Research contract**—A written agreement between an approved clinical registrant and a certified ACRC that contains the responsibilities and duties of each party with respect to the research project that the approved clinical registrant and the certified ACRC intend to conduct under this chapter and under which the certified ACRC will provide medical advice to the approved clinical registrant regarding, among other areas, patient health and safety, medical applications, and dispensing and management of controlled substances.

**Research project**—A distinct plan for research.

**Research protocol**—A written procedure for conducting a research project that includes all of the following information:

- (i) With respect to the investigator:
  - (A) Name and address.
  - (B) Institutional affiliation.
  - (C) Qualifications, including a curriculum vitae and list of publications, if any.
- (ii) With respect to the research project:
  - (A) Title of the project.
  - (B) Statement of the purpose.
  - (C) Type of medical marijuana product involved and the amount needed.

(D) Description of the research to be conducted, including the number and type of medical marijuana product, the dosage, the route and method of administration, and the duration of the research project.

(E) The locations of the dispensaries that will be participating in the research project.

**§ 1210.22. Clinical registrants generally.**

(a) The qualifications that a clinical registrant shall meet to be approved by the Department are continuing qualifications.

(b) An applicant that has already been issued a grower/processor permit or a dispensary permit by the Department under sections 601—616 of the act (35 P.S. §§ 10231.601—10231.616) who wishes to become an approved clinical registrant shall:

(1) Submit a request to the Department under § 1210.28 (relating to request for conversion of an existing permit) with the application for approval of a clinical registrant.

(2) Not be required to apply for, or be eligible to receive, an additional grower/processor permit or dispensary permit under the act, this chapter, Chapter 1141, Chapter 1151 or Chapter 1161, as applicable.

(c) The Department will not approve more than eight clinical registrants.

(d) An approved clinical registrant may not dispense or offer to dispense any medical marijuana products at any dispensary location until:

(1) The Department has determined that an approved clinical registrant is ready, willing and able to operate as a grower/processor and a dispensary.

(2) The approved clinical registrant demonstrates to the satisfaction of the Department that it will be able to begin an approved research project within 6 months following the date the Department determines the approved clinical registrant's dispensary to be operational.

**§ 1210.23. Limitation on permits.**

(a) An approved clinical registrant may not hold more than one grower/processor permit and one dispensary permit.

(b) A dispensary permit held by an approved clinical registrant for use under this chapter may be used to dispense medical marijuana products at no more than six separate locations as approved by the Department. An approved clinical registrant may dispense medical marijuana products to a patient or caregiver who presents a valid identification card to an employee who is authorized to dispense medical marijuana products at a dispensary location operated by an approved clinical registrant under this chapter.

(c) An approved clinical registrant may not locate more than three of its approved dispensaries in the same medical marijuana region or in the same county.

**§ 1210.24. Capital requirements.**

(a) An applicant is not required to meet the same capital requirements as a medical marijuana organization under § 1141.30 (relating to capital requirements).

(b) An applicant shall provide all of the following information with its application under § 1210.27 (relating to application for approval of a clinical registrant):

(1) An affidavit, on a form prescribed by the Department, stating that the applicant has at least \$15 million in capital.

(2) A release sufficient to obtain information from a state governmental agency, financial institutions, an employer or any other person to verify the requirements of paragraph (1). Failure to provide a release will result in the rejection of the application for approval of a clinical registrant.

**§ 1210.25. Certifying ACRCs.**

(a) The qualifications that an ACRC shall meet to be approved by the Department are continuing qualifications.

(b) An accredited medical school may file an application with the Department to be approved as a certified ACRC using a form prescribed by the Department. The Department will publish a notice in the *Pennsylvania Bulletin* announcing the availability of the application and the time period during which the Department will accept applications.

(c) An application submitted under subsection (b) must include all of the following information:

(1) The legal name, address and telephone number of the accredited medical school and the name, telephone number and professional e-mail address of an individual at the accredited medical school who will be the primary contact for the Department during the Department's review of the application.

(2) The legal name, address and telephone number of the acute care hospital that is operated by or partnered with the accredited medical school and the name, telephone number and professional e-mail address of an individual at the accredited medical school who will be the primary contact for the Department during the Department's review of the application.

(3) An affidavit, on a form prescribed by the Department, disclosing any payments to the accredited medical school or any of its affiliates made by a person with whom the accredited medical school intends to enter into a research contract for purposes of operating as an approved clinical registrant or by any principal or financial backer of the person, up to and including the date of the submission of the application. The affidavit must include the amount and purpose of each payment made.

(4) A statement that the accredited medical school is currently accredited by the Liaison Committee of Medical Education or the Commission on Osteopathic College Accreditation.

(5) A statement that the acute care hospital designated by the accredited medical school under paragraph (2) holds a valid license from the Department.

(6) The State and Federal tax identification numbers of the accredited medical school.

(7) A statement that a false statement made by the accredited medical school submitting the application is punishable under the applicable provisions of 18 Pa.C.S. Chapter 49 (relating to falsification and intimidation).

(8) Any other information deemed necessary by the Department.

(d) The Department will publish a list containing the name and address of each certified ACRC on its publicly-accessible web site and in the *Pennsylvania Bulletin*.

**§ 1210.26. Revocation of a certification of an ACRC.**

(a) The certification of an ACRC will be revoked by the Department upon the occurrence of any of the following:

(1) The ACRC is no longer accredited by the Liaison Committee of Medical Education or the Commission on Osteopathic College Accreditation, as applicable.

(2) The ACRC no longer operates or is partnered with the acute care hospital listed in its application for certification.

(3) The ACRC is no longer located in this Commonwealth.

(b) If the Department intends to revoke the certification of an ACRC under this section, the Department will provide written notice of its intention to the ACRC. Upon receipt of a notice under this subsection, the ACRC shall have 90 days from the date of the notice to provide the Department with evidence satisfactory to the Department that it has received reaccreditation by the Liaison Committee of Medical Education or the Commission on Osteopathic College Accreditation, as applicable, that it operates or is partnered with another acute care hospital or that it has relocated within this Commonwealth. If the ACRC does not comply with this subsection within 90 days from the date of the notice, the Department may revoke the certification of the ACRC.

**§ 1210.27. Application for approval of a clinical registrant.**

(a) An applicant shall file an application for approval of a clinical registrant with the Department on a form prescribed by the Department. The Department will publish a notice in the *Pennsylvania Bulletin* announcing the availability of applications and the time period during which the Department will accept applications.

(b) An application for approval of a clinical registrant submitted under this section must include all of the following information:

(1) The legal name, address and telephone number of the applicant and the name, telephone number and professional e-mail address of an individual who will be the primary contact for the Department during the Department's review of the application.

(2) The name of the certified ACRC under § 1210.25 (relating to certifying ACRCs).

(3) The applicant's State and Federal tax identification numbers.

(4) An affidavit, on a form prescribed by the Department, disclosing any payments made by the applicant, a principal or financial backer of the applicant to a certified ACRC or any affiliates of a certified ACRC, up to and including the date of the submission of the application. The affidavit must include the amount and purpose of each payment made.

(5) The name of an institution of higher education, if any, that will be participating in an approved research project.

(6) An affidavit and release under § 1210.24 (relating to capital requirements).

(7) Evidence that the applicant is responsible and capable of successfully operating as an approved clinical registrant, including all of the following:

(i) A copy of the research contract between the applicant and the certified ACRC.

(ii) A description of the research projects the applicant and the certified ACRC intend to conduct.

(iii) A statement that the applicant may not engage in the business of selling, dispensing or offering to dispense medical marijuana products at an applicant's dispensary until the dispensary is ready, willing and able to dispense medical marijuana products.

(8) Except as provided in subsection (d), an application for a grower/processor permit under Chapters 1141 and 1151 (relating to general provisions; and growers/processors).

(9) Except as provided in subsection (d), an application for a dispensary permit under Chapter 1141 and Chapter 1161 (relating to dispensaries).

(10) A statement that a false statement made by the applicant is punishable under the applicable provisions of 18 Pa.C.S. Chapter 49 (relating to falsification and intimidation).

(11) Any other information deemed necessary by the Department.

(c) An applicant may only include one certified ACRC in its application for approval of a clinical registrant.

(d) Subject to the limitations in § 1210.23 (relating to limitation on permits), an applicant that already holds a grower/processor permit or a dispensary permit, or both, under sections 601—616 of the act (35 P.S. §§ 10231.601—10231.616), shall include in its application for approval of a clinical registrant a request for conversion of an existing permit under § 1210.28 (relating to request for conversion of an existing permit).

(e) The following documents provided to the Department under this chapter are confidential and not subject to disclosure under the Right-to-Know Law (65 P.S. §§ 67.101—67.3104):

- (1) A research contract.
- (2) A description of a research project.
- (3) A certified ACRC's intellectual property.
- (4) An approved clinical registrant's intellectual property.

**§ 1210.28. Request for conversion of an existing permit.**

(a) An applicant holding a grower/processor permit or a dispensary permit, or both, under sections 601—616 of the act (35 P.S. §§ 10231.601—10231.616), may submit a request for conversion of an existing permit under this section on a form prescribed by the Department when submitting an application for approval of a clinical registrant under § 1210.27 (relating to application for approval of a clinical registrant).

(b) Upon approval of a clinical registrant under subsection (a), the clinical registrant shall surrender its grower/processor permit or dispensary permit, or both, previously issued under sections 601—616 of the act.

(c) A grower/processor permit or dispensary permit, or both, surrendered under subsection (b) will increase the number of grower/processor permits or dispensary permits, as applicable, available to other persons applying for permits under sections 601—616 of the act, Chapter 1141 (relating to general provisions) and Chapter 1151 or 1161 (relating to growers/processors; and dispensaries), as applicable.

(d) An applicant may include additional dispensary locations in its request for conversion of an existing



permit or may request additional dispensary locations at a later date under § 1161.40 (relating to application for additional dispensary locations).

**§ 1210.29. Practices and procedures of institutional review boards.**

An institutional review board shall adopt practices and procedures regarding research projects which, at a minimum, address all of the following:

- (1) Protecting the rights and welfare of patients involved in research projects conducted under this chapter.
- (2) Minimizing the risk to patients by using procedures that are consistent with sound research design and that do not unnecessarily expose patients to risk being performed on subjects for diagnosis or treatment purposes.
- (3) Determining that the risks to patients involved in research projects are reasonable in relation to the anticipated benefits (if any) to the patients, and the importance of the knowledge that may be expected to result from the research project.
- (4) Guaranteeing that informed consent will be sought from each prospective patient or the patient's legally authorized representative and is properly documented.
- (5) Protecting the privacy of every patient.

**§ 1210.30. Approval or denial of an application for approval of a clinical registrant.**

(a) An applicant shall be an approved clinical registrant upon the Department's approval of an application under § 1210.27 (relating to application for approval of a clinical registrant).

(b) The Department may deny the application for approval of a clinical registrant if the payments disclosed in the affidavit submitted under § 1210.27(b)(4) violate the prohibition in § 1210.34 (relating to prohibition).

(c) Before the Department denies an application for approval of a clinical registrant under subsection (b), the Department will provide the applicant with written notice specifying the violation. The applicant may submit to the Department, within 10 days following receipt of the Department's written notice, a supplemental affidavit indicating that the certified ACRC or its affiliate has refunded to the applicant or a principal or financial backer of the applicant that portion of payments in violation of § 1210.34. Upon receipt of the supplemental affidavit, the Department may approve the application for approval of a clinical registrant. If the applicant fails to provide a supplemental affidavit within 10 days of the Department's written notice, the Department will deny the application for approval of a clinical registrant.

(d) An approved clinical registrant shall have the same rights and obligations as a medical marijuana organization that holds a grower/processor permit or a dispensary permit under sections 601—616 of the act (35 P.S. §§ 10231.601—10231.616) and Chapters 1141, 1151 and 1161 (relating to general provisions; growers/processors; and dispensaries), as applicable, subject to any modifications or limitations in sections 2001—2003 of the act (35 P.S. §§ 10231.2001—10231.2003) and this chapter.

(e) A grower/processor permit and a dispensary permit issued to an approved clinical registrant will expire upon the nonrenewal, revocation or suspension by the Department of the approved clinical registrant's approval.

**§ 1210.31. Renewal of approval of a clinical registrant.**

(a) The term of an approval of a clinical registrant will coincide with the term of the clinical registrant's grower/processor permit and dispensary permit.

(b) An approved clinical registrant shall renew its approval as part of the renewal for a grower/processor permit and a dispensary permit under § 1141.36 (relating to permit renewal applications). The renewal application must be on a form prescribed by the Department and include all of the following:

- (1) A copy of the research contract.
- (2) A list of the approved research projects that are continuing or, if any of them are concluded, the dates they were concluded.
- (3) A report of the current status of active research projects being conducted under the research contract, including preliminary findings, if applicable, and any expectations and projections the approved clinical registrant and the certified ACRC have for future research projects over the course of the 2 years following the date of submission of the report.
- (4) A description of proposed research projects covered by the research contract that the approved clinical registrant intends to conduct within the next year following submission of the renewal application including evidence of institutional review board approval for each research project.

(5) A statement that a false statement made by the approved clinical registrant or the certified ACRC is punishable under the applicable provisions of 18 Pa.C.S. Chapter 49 (relating to falsification and intimidation).

(6) Any other information deemed necessary by the Department.

(c) The Department will not renew an approval for a clinical registrant under this section if the Department determines that none of the dispensary locations under the dispensary permit held by the approved clinical registrant are participating in an approved research project and the approved clinical registrant does not intend to commence any additional approved research projects within the first 6 months following the approval of its application for renewal.

**§ 1210.32. Revocation of approval of a clinical registrant.**

(a) The approval of a clinical registrant will be revoked immediately by the Department upon the occurrence of any of the following:

- (1) The Department revokes, suspends or does not renew the grower/processor permit or dispensary permit held by the approved clinical registrant.
- (2) Subject to subsection (b), the Department revokes the certification of the ACRC listed in the clinical registrant's application under § 1210.27 (relating to application for approval of a clinical registrant).

(3) The research contract between the approved clinical registrant and the certified ACRC expires without being renewed or is terminated by either party.

(b) If the Department intends to revoke the certification of the ACRC under subsection (a)(2), the Department will provide written notice of its intention to the approved clinical registrant. Upon receipt of a notice under this subsection, the approved clinical registrant shall have 90 days from the date of the notice to contract with another

certified ACRC that is not already a party to a research contract with another approved clinical registrant and to provide the Department with all relevant information relating to the certified ACRC. If the approved clinical registrant does not comply with this subsection within 90 days from the date of the notice, the Department may revoke the clinical registrant's approval.

**§ 1210.33. Dispensing and tracking medical marijuana products.**

In addition to the information to be entered in the electronic tracking system under § 1161.39 (relating to electronic tracking system) with respect to medical marijuana products dispensed to all patients and caregivers, the dispensary of an approved clinical registrant shall enter information into the electronic tracking system as required by the Department that identifies patients that are enrolled in an approved research project.

**§ 1210.34. Prohibition.**

Except for reasonable remuneration specifically in a research contract for the services to be performed or costs to be incurred by a certified ACRC, a certified ACRC may not solicit or accept anything of value from an approved clinical registrant or a principal or financial backer of an approved clinical registrant. Reasonable remuneration may include up-front deposits or other payments to a certified ACRC under a research contract to defray start-up and ongoing costs of the certified ACRC in connection with the establishment of the contractual relationship in the research contract. This section does not apply to charitable contributions that are part of a history of giving to a certified ACRC established 1 year or more prior to the effective date of the act.

**§ 1210.35. Reporting requirements.**

(a) Except as provided in subsection (b), an approved clinical registrant shall provide a written report of its findings to the Department within 365 days of the completion of an approved research project.

(b) In the event the approved clinical registrant or its certified ACRC intends to submit a manuscript of the results of an approved research project to a peer-reviewed medical journal for publication, the written report required under subsection (a) shall be provided to the Department within 30 days following publication.

(c) The Department may post the findings received under this section on its publicly-accessible web site and share them with other approved clinical registrants, certified ACRCs or any other person it determines would benefit from the findings.

**§ 1210.36. Sale or exchange.**

(a) The grower/processor of an approved clinical registrant may sell or exchange the following items to another grower/processor of an approved clinical registrant for the purposes of conducting research:

- (1) Seeds.
- (2) Immature medical marijuana plants.
- (3) Medical marijuana plants.
- (4) Medical marijuana products.

(b) The grower/processor of an approved clinical registrant may sell or exchange the following items to another grower/processor holding a permit under sections 601—616 of the act (35 P.S. §§ 10231.601—10231.616):

- (1) Seeds.
- (2) Immature medical marijuana plants.

(3) Medical marijuana plants.

(4) Medical marijuana products

(c) The grower/processor of an approved clinical registrant may only sell its medical marijuana products to either its own approved dispensaries or any other approved dispensaries of an approved clinical registrant.

(d) Notwithstanding subsection (c), an approved clinical registrant may petition the Department, on a form prescribed by the Department, to sell its medical marijuana products to a dispensary holding a permit under sections 601—616 of the act.

(e) A petition filed under subsection (d) must include either the report or manuscript required under § 1210.35 (relating to reporting requirements). If a clinical registrant fails to provide the report or manuscript required under § 1210.35, the petition shall be denied.

**§ 1210.37. Appeals.**

Chapter 5 of 2 Pa.C.S. (relating to practice and procedure) applies to actions of the Department under this chapter constituting an adjudication as defined in 2 Pa.C.S. § 101 (relating to definitions).

[Pa.B. Doc. No. 18-393. Filed for public inspection March 16, 2018, 9:00 a.m.]

**Title 58—RECREATION**

**PENNSYLVANIA GAMING CONTROL BOARD**

**[ 58 PA. CODE CHS. 805—808 ]**

**General Interactive Gaming Provisions; 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 licensing provisions for interactive gaming manufacturers, interactive gaming suppliers, interactive gaming service providers and all categories of licensure for individuals associated with interactive gaming that will be required to be licensed by the Board to read as set forth in Annex A.

*Purpose of this Temporary Rulemaking*

This temporary rulemaking includes the licensing provisions for interactive gaming manufacturers, interactive gaming suppliers, interactive gaming service providers and categories of licensure for individuals associated with interactive gaming that will be required to be licensed by the Board.

*Explanation of Chapters 805—808*

Chapters 805—808 provide the licensing provisions for interactive gaming manufacturers, interactive gaming suppliers, interactive gaming service providers and categories of licensure for individuals associated with interactive gaming that will be required to be licensed by the Board.

Chapter 804 will be adopted in a separate temporary rulemaking. It will include the licensing requirements for qualified gaming entities to be delineated by the Board at a future time.

*Affected Parties*

This temporary rulemaking provides interested parties information relative to entities that may participate in

interactive gaming in this Commonwealth and the petition/application process for some of those parties.

#### *Fiscal Impact*

##### *Commonwealth*

The Board expects that this temporary rulemaking will have minimal fiscal impact on the Board and other Commonwealth agencies. Impact should be confined to the additional personnel and expenses relating to processing new applications and continued oversight of expanded gaming with portions of these costs absorbed by existing Board staff.

##### *Political subdivisions*

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

##### *Private sector*

This temporary rulemaking includes the licensing provisions for interactive gaming manufacturers, interactive gaming suppliers, interactive gaming service providers and categories of licensure for individuals associated with interactive gaming that will be required to be licensed by the Board. It is anticipated that this temporary rulemaking will have an impact only on those individuals seeking to acquire these 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 manufacturer license, an interactive gaming supplier license, an interactive gaming service provider registration or certificate, and categories of individuals associated with interactive gaming that will be required to be licensed by the Board 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 expires 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, Attention: Public Comment on Regulation # 125-210.

##### *Contact Person*

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

#### *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, the temporary regulations are exempt from the requirements of 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 temporary §§ 805.1—805.7, 806.1—806.7, 807.1—807.9 and 808.1—808.8 to read as set forth in Annex A.

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

(3) The 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 on March 17, 2020.

DAVID M. BARASCH,  
*Chairperson*

**Fiscal Note:** 125-210. No fiscal impact; (8) recommends adoption.

#### **Annex A**

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

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

#### **Subpart L. INTERACTIVE GAMING**

#### **CHAPTER 805. INTERACTIVE GAMING MANUFACTURER—TEMPORARY REGULATIONS**

Sec.	
805.1.	Interactive gaming manufacturer license requirements.
805.2.	Interactive gaming manufacturer license application and standards.
805.3.	Interactive gaming manufacturer license term and renewal.
805.4.	Interactive gaming manufacturer abbreviated license process.
805.5.	Interactive gaming manufacturer conditional license process.
805.6.	Interactive gaming manufacturer licensee responsibilities.
805.7.	Interactive gaming manufacturer licensee change of control.

#### **§ 805.1. Interactive gaming manufacturer license requirements.**

(a) An interactive gaming manufacturer seeking to manufacture interactive devices or associated equipment



for use in this Commonwealth shall apply to the Board for an interactive gaming manufacturer license.

(b) In accordance with section 1317.1(e)(3) of the act (relating to manufacturer licenses), an applicant for or the holder of an interactive gaming manufacturer license or any of the applicant's or holder's affiliates, intermediaries, subsidiaries or holding companies may not apply for or hold a slot machine license or an interactive gaming supplier license.

**§ 805.2. Interactive gaming manufacturer license application and standards.**

(a) An applicant for an interactive gaming manufacturer license shall submit all of the following:

(1) An original and one copy of the Enterprise Entity Application and Disclosure Information Form for the applicant and each of the applicant's principal affiliates.

(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 §§ 435a.2 and 808.3 (relating to key employee license; and interactive key employees) and principal under Chapter 433a (relating to principal licenses) and § 808.2 (relating to interactive gaming principals) as specified by the Enterprise Entity Application and Disclosure Information Form and other persons as determined by the Board.

(5) An affirmation that neither the applicant nor any of its affiliates, intermediaries, subsidiaries or holding companies is an applicant for or holder of a slot machine license and that the applicant has neither applied for nor holds an interactive gaming supplier license.

(6) 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.

(b) In addition to the materials required under subsection (a), an applicant for an interactive gaming manufacturer license shall do all of the following:

(1) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications; statement of conditions; wagering restrictions).

(2) Demonstrate that the applicant has the ability to manufacture, build, rebuild, repair, fabricate, assemble, produce, program, design or otherwise make modifications to interactive gaming devices or associated equipment which meet one or more of the following criteria:

(i) Are specifically designed for use in the operation of interactive gaming or an interactive gaming device or associated equipment.

(ii) Are needed to conduct an authorized interactive game.

(iii) Have the capacity to affect the outcome of the play of an interactive game.

(iv) Have the capacity to affect the calculation, storage, collection or control of gross interactive gaming revenue.

(c) In determining whether an applicant is suitable to be licensed as an interactive gaming manufacturer under this section, the Board will consider all of the following:

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

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

(3) The integrity of all financial backers.

(4) The suitability of the applicant and the principals of the applicant 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.

**§ 805.3. Interactive gaming manufacturer license term and renewal.**

(a) An interactive gaming manufacturer 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 manufacturer license shall be filed at least 6 months prior to the expiration of the current license.

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

**§ 805.4. Interactive gaming manufacturer abbreviated license process.**

(a) The Board may use an abbreviated licensing process if the applicant holds a license issued by the Board to manufacture slot machines, table games, table game devices or associated equipment and all of the following apply:

(1) The license was issued by the Board within a 36-month period immediately preceding the date the entity files an application to manufacture interactive gaming devices or associated equipment.

(2) The entity to whom the manufacturer license was issued affirms there has been no material change in circumstances relating to the license.

(3) The Board determines, in its sole discretion, that there has been no material change in circumstances relating to the licensee that necessitates that the abbreviated process not be used.

(b) This section may not be construed to waive any fees associated with obtaining an interactive gaming manufacturer license through the application process in this Commonwealth.

**§ 805.5. Interactive gaming manufacturer conditional license process.**

(a) The Board may issue conditional authorization to a person applying for an interactive gaming manufacturer license until September 17, 2019.

(1) Conditional authorization issued under this subpart will 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 shall allow an applicant for an interactive gaming manufacturer license to engage in all of the functions of a licensed interactive gaming manufacturer 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 manufacturer license to the Board.

(ii) The applicant is a certified gaming service provider in this Commonwealth or licensed in good standing to manufacture or provide interactive gaming devices or associated equipment in another jurisdiction in the United States or Canada that the Board has determined has licensing standards that are as comprehensive and thorough and provide similar adequate safeguards as those required under the act.

(iii) Submit a written statement from an interactive certificateholder or interactive gaming operator that the entity intends to do business with the applicant and a description of the services or products to be provided by the applicant.

(iv) Pass a preliminary review of the applicant's and its principal's criminal history.

(v) The applicant agrees to pay or has paid the nonrefundable application fee posted on the Board's web site prior to the issuance of conditional authorization.

(vi) The Bureau does not have an objection to the issuance of a conditional authorization to the applicant.

(b) An applicant for an interactive gaming manufacturer license that has received a conditional license shall provide to the Board in a manner and in the form as the Board will prescribe, on the 20th day following the end of each calendar quarter thereafter, a summary of the quarterly sales made to all interactive gaming certificateholders and interactive gaming operators in this Commonwealth, as well as all contracts or invoices concerning these sales upon request by the Board.

(c) If the Office of Enforcement Counsel issues a Notice of Recommendation for Denial to an applicant for an interactive gaming manufacturer license that has received a conditional license, the Bureau of Licensing will rescind the conditional license. If the conditional license is rescinded, the conditional licensee shall cease conducting business by the date specified in the notice of the rescission sent to the conditional licensee by the Bureau of Licensing under subsection (d).

(d) When the Bureau of Licensing rescinds a conditional license, the Bureau of Licensing will notify the holder of the conditional license and all interactive gaming certificateholders and interactive gaming operators by registered mail and e-mail that:

(1) Permission for the conditional licensee to conduct business under this subpart has been rescinded.

(2) Interactive gaming certificateholders and interactive gaming operators and any other licensee shall cease conducting business with the conditional licensee by the date specified in the notice.

(e) Pending a hearing on the Notice of Recommendation for Denial, the conditional licensee may not seek or

conduct any new business in this Commonwealth and may only complete transactions that were commenced prior to the date specified in the notice of rescission.

(f) Nothing in this section may be construed to waive fees associated with obtaining a license through the application process in this Commonwealth.

**§ 805.6. Interactive gaming manufacturer licensee responsibilities.**

(a) A holder of an interactive gaming manufacturer license shall have a continuing duty to do all of the following:

(1) Comply with the general requirements in Chapters 421a and 423a (relating to general provisions; and applications; statement of conditions; wagering restrictions).

(2) For publicly traded interactive gaming manufacturer licensees, provide notification of all SEC filings or if the manufacturer is publicly traded on a foreign exchange, a copy of all filings submitted to the securities regulator that has jurisdiction over the foreign publicly traded corporation. The notification or copies of the filings shall be submitted to the Bureau of Licensing within 30 days after the date of filing with the SEC or securities regulator that has jurisdiction over the foreign publicly traded corporation.

(b) An employee of a licensed manufacturer who is a gaming or nongaming employee as defined in §§ 401a.3 and 801.2 (relating to definitions) shall obtain a permit under §§ 435a.3 and 808.4 (relating to occupation permit; and interactive gaming employees) or registration under §§ 435a.5 and 808.5 (relating to nongaming employee registration; and interactive nongaming employees).

**§ 805.7. Interactive gaming manufacturer licensee change of control.**

(a) For purposes of this section, a change of control of an interactive gaming manufacturer licensee will be deemed to have occurred when a person or group of persons acquires:

(1) More than 20% of an interactive gaming manufacturer licensee's securities, assets or other ownership interests.

(2) More than 20% of the securities or other ownership interests of a corporation or other form of business entity that owns directly or indirectly at least 20% of the voting or other securities or other ownership interests of the interactive gaming manufacturer licensee.

(3) Any other interest in an interactive gaming manufacturer licensee which allows the acquirer to control the interactive gaming manufacturer licensee.

(b) An interactive gaming manufacturer licensee shall notify the Bureau and the Bureau of Licensing by filing a Notification of Proposed Transfer of Interest Form immediately upon becoming aware of any proposed or contemplated change of control of the interactive gaming manufacturer licensee.

(c) Prior to acquiring a controlling interest in an interactive gaming manufacturer licensee, the acquirer shall file a petition in accordance with § 493a.4 (relating to petitions generally) requesting Board approval of the acquisition. The petition must include all of the following:

(1) A copy of all documents governing the acquisition.

(2) Completed applications for the acquiring company, as required under this chapter, principals as required under Chapters 433a (relating to principal licenses) and § 808.2 (relating to interactive gaming principals) and

key employees as required under §§ 435a.2 and 808.3 (relating to key employee license; and interactive key employees).

(3) An affirmation that neither the acquirer nor any of its affiliates, intermediaries, subsidiaries or holding companies is a slot machine licensee or interactive gaming certificateholder and that the acquirer has neither applied for nor holds an interactive gaming supplier license.

(d) A person or group of persons seeking to acquire a controlling interest in an interactive gaming manufacturer licensee shall promptly provide any additional information requested by the Board and Board staff and cooperate with the Bureau in any investigations related to the petition filed under subsection (c).

(e) A person or group of persons may not acquire a controlling interest in an interactive gaming manufacturer licensee until the petition required under subsection (c) has been approved. A person or group of persons seeking to acquire a controlling interest in an interactive gaming manufacturer licensee and the interactive gaming manufacturer licensee may enter into an agreement of sale that is contingent on Board approval of the petition.

(f) The requirements in this section do not apply to the acquisition of a controlling interest in an interactive gaming manufacturer licensee when all of the following conditions are met:

(1) The acquirer is an existing licensed slot machine, table game or interactive gaming manufacturer.

(2) The existing licensed interactive gaming manufacturer has provided the Bureau and the Bureau of Licensing notification and a copy of all documents governing the acquisition at least 60 days prior to the acquisition.

(3) After reviewing the documentation, the Bureau and the Bureau of Licensing determine that the filing of a petition is not required.

**CHAPTER 806. INTERACTIVE GAMING SUPPLIER—TEMPORARY REGULATIONS**

Sec.	
806.1.	Interactive gaming supplier license requirements.
806.2.	Interactive gaming supplier application and standards.
806.3.	Interactive gaming supplier entity term and renewal.
806.4.	Interactive gaming supplier abbreviated license process.
806.5.	Interactive gaming supplier conditional license process.
806.6.	Interactive gaming supplier licensee responsibilities.
806.7.	Interactive gaming supplier change of control.

**§ 806.1. Interactive gaming supplier license requirements.**

(a) A supplier seeking to sell, lease, offer or otherwise provide, distribute or service interactive gaming devices or associated equipment to an interactive gaming certificateholder or interactive gaming operator in this Commonwealth shall apply to the Board for an interactive gaming supplier license.

(b) In accordance with sections 1317 and 1317.1 of the act (relating to supplier licenses; and manufacturer licenses), an applicant for or the holder of an interactive gaming supplier license or any of the applicant's or holder's affiliates, intermediaries, subsidiaries or holding companies may not apply for or hold a slot machine license or an interactive gaming manufacturer license.

**§ 806.2. Interactive gaming supplier application and standards.**

(a) An applicant for an interactive gaming supplier license shall submit all of the following:

(1) An original and one copy of the Enterprise Entity Application and Disclosure Information Form for the applicant and each of the applicant's principal affiliates.

(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 §§ 435a.2 and 808.3 (relating to key employee license; and interactive key employees) and principal under Chapter 433a (relating to principal licenses) and § 808.2 (relating to interactive gaming principals) as specified by the Enterprise Entity Application and Disclosure Information Form and other persons as determined by the Board.

(5) An affirmation that neither the applicant nor any of its affiliates, intermediaries, subsidiaries or holding companies is an applicant for or holder of a slot machine license and that the applicant has neither applied for nor holds an interactive gaming manufacturer license.

(6) 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.

(b) In addition to the materials required under subsection (a), an applicant for an interactive gaming supplier license shall comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications; statement of conditions; wagering restrictions).

(c) In determining whether an applicant is suitable to be licensed as an interactive gaming supplier under this section, the Board will consider all of the following:

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

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

(3) The integrity of all financial backers.

(4) The suitability of the applicant and the principals of the applicant 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.

**§ 806.3. Interactive gaming supplier entity term and renewal.**

(a) An interactive gaming supplier 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 supplier license shall be filed at least 6 months prior to the expiration of the current license.

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



**§ 806.4. Interactive gaming supplier abbreviated license process.**

(a) The Board may use an abbreviated licensing process if the applicant holds a license issued by the Board to supply slot machines, table games, table game devices or associated equipment and all of the following apply:

(1) The license was issued by the Board within a 36-month period immediately preceding the date the entity files an application to supply interactive gaming devices or associated equipment.

(2) The entity to whom the supplier license was issued affirms there has been no material change in circumstances relating to the license.

(3) The Board determines, in its sole discretion, that there has been no material change in circumstances relating to the licensee that necessitates that the abbreviated process not be used.

(b) This section may not be construed to waive any fees associated with obtaining an interactive gaming supplier license through the application process in this Commonwealth.

**§ 806.5. Interactive gaming supplier conditional license process.**

(a) The Board may issue conditional authorization to a person applying for an interactive gaming supplier license until September 17, 2019.

(1) Conditional authorization issued under this subpart will 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 supplier license to engage in all of the functions of a licensed interactive gaming supplier for the duration of the conditional authorization.

(2) A conditional authorization will not be issued unless all of the following apply:

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

(ii) The applicant is a certified gaming service provider in this Commonwealth or licensed in good standing to supply or service interactive gaming devices or associated equipment in another jurisdiction in the United States or Canada that the Board has determined has licensing standards that are as comprehensive and thorough and provide similar adequate safeguards as those required under the act.

(iii) Submit a written statement from an interactive certificateholder or interactive gaming operator that the entity intends to do business with the applicant and a description of the services or products to be provided by the applicant.

(iv) Pass a preliminary review of the applicant's and its principal's criminal history.

(v) The applicant agrees to pay or has paid the non-refundable application fee posted on the Board's web site prior to the issuance of conditional authorization.

(vi) The Bureau does not have an objection to the issuance of a conditional authorization to the applicant.

(b) An applicant for an interactive gaming supplier license that has received a conditional license shall provide to the Board in a manner and in the form as the Board will prescribe, on the 20th day following the end of each calendar quarter thereafter, a summary of the quarterly sales made to all interactive gaming certificateholders and interactive gaming operators in this Commonwealth, as well as all contracts or invoices concerning these sales upon request by the Board.

(c) If the Office of Enforcement Counsel issues a Notice of Recommendation for Denial to an applicant for an interactive gaming supplier license that has received a conditional license, the Bureau of Licensing may rescind the conditional license. If the conditional license is rescinded, the conditional licensee shall cease conducting business by the date specified in the notice of the rescission sent to the conditional licensee by the Bureau of Licensing under subsection (d).

(d) When the Bureau of Licensing rescinds a conditional license, the Bureau of Licensing will notify the holder of the conditional license and all interactive gaming certificateholders and interactive gaming operators by registered mail and e-mail that:

(1) Permission for the conditional licensee to conduct business under this subpart has been rescinded.

(2) Interactive gaming certificateholders and interactive gaming operators and any other licensee shall cease conducting business with the conditional licensee by the date specified in the notice.

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

(f) Nothing in this section may be construed to waive fees associated with obtaining a license through the application process in this Commonwealth.

**§ 806.6. Interactive gaming supplier licensee responsibilities.**

(a) A supplier shall submit to the Bureau of Licensing for review any agreements with a licensed interactive gaming manufacturer, licensed interactive gaming operator, slot machine licensee or interactive gaming certificateholder. The review may include financing arrangements, technical competency, compensative agreements and other terms or conditions to ensure the financial independence of the licensed interactive gaming supplier from any licensed interactive gaming manufacturer or licensed or certified interactive gaming entity.

(b) A holder of a supplier license shall have a continuing duty to do all of the following apply:

(1) Comply with the general requirements in Chapters 421a and 423a (relating to general provisions; and applications; statement of conditions; wagering restrictions).

(2) For publicly traded interactive gaming suppliers, provide notification of all SEC filings or, if the supplier is publicly traded on a foreign exchange, a copy of all filings submitted to the securities regulator that has jurisdiction over the foreign publicly traded corporation. The notification or copies of the filings shall be submitted to the Bureau of Licensing within 30 days after the date of filing with the SEC or securities regulator that has jurisdiction over the foreign publicly traded corporation.

(c) An employee of a licensed interactive gaming supplier who is a gaming or nongaming employee as defined



in §§ 401a.3 and 801.2 (relating to definitions) shall obtain a permit under §§ 435a.3 and 808.4 (relating to occupation permit; and interactive gaming employees) or registration under §§ 435a.5 and 808.5 (relating to nongaming employee registration; and interactive nongaming employees).

**§ 806.7. Interactive gaming supplier change of control.**

(a) For purposes of this section, a change of control of an interactive gaming supplier licensee will be deemed to have occurred when a person or group of persons acquires:

(1) More than 20% of an interactive gaming supplier licensee’s securities, assets or other ownership interests.

(2) More than 20% of the securities or other ownership interests of a corporation or other form of business entity that owns directly or indirectly at least 20% of the voting or other securities or other ownership interests of the interactive gaming supplier licensee.

(3) Any other interest in an interactive gaming supplier licensee which allows the acquirer to control the interactive gaming supplier licensee.

(b) An interactive gaming supplier licensee shall notify the Bureau and the Bureau of Licensing by filing a Notification of Proposed Transfer of Interest Form immediately upon becoming aware of any proposed or contemplated change of control of the interactive gaming supplier licensee.

(c) Prior to acquiring a controlling interest in an interactive gaming supplier licensee, the acquirer shall file a petition in accordance with § 493a.4 (relating to petitions generally) requesting Board approval of the acquisition. The petition must include all of the following:

(1) A copy of all documents governing the acquisition.

(2) Completed applications for the acquiring company, as required under this chapter, principals as required under Chapter 433a (relating to principal licenses) and § 808.2 (relating to interactive gaming principals) and key employees as required under §§ 435a.2 and 808.3 (relating to key employee license; and interactive key employees).

(3) An affirmation that neither the acquirer nor any of its affiliates, intermediaries, subsidiaries or holding companies is a slot machine licensee or interactive gaming certificateholder and that the acquirer has neither applied for nor holds an interactive gaming manufacturer license.

(d) A person or group of persons seeking to acquire a controlling interest in an interactive gaming supplier licensee shall promptly provide any additional information requested by the Board and Board staff and cooperate with the Bureau in any investigations related to the petition filed under subsection (b).

(e) A person or group of persons may not acquire a controlling interest in an interactive gaming supplier licensee until the petition, required under subsection (b), has been approved. A person or group of persons seeking to acquire a controlling interest in an interactive gaming supplier licensee and the supplier licensee may enter into a sales agreement that is contingent on Board approval of the petition.

(f) The requirements in this section do not apply to the acquisition of a controlling interest in an interactive gaming supplier licensee when all of the following conditions are met:

(1) The acquirer is an existing licensed slot machine, table game or interactive gaming supplier.

(2) The existing licensed interactive gaming supplier has provided the Bureau and the Bureau of Licensing notification and a copy of all documents governing the acquisition at least 60 days prior to the acquisition.

(3) After reviewing the documentation, the Bureau and the Bureau of Licensing determine that the filing of a petition is not required.

**CHAPTER 807. INTERACTIVE GAMING SERVICE PROVIDERS—TEMPORARY REGULATIONS**

Sec.	
807.1.	General interactive gaming service provider requirements.
807.2.	Interactive gaming service provider certification applications.
807.3.	Interactive gaming service provider registration applications.
807.4.	Qualification of individuals and entities of certified interactive gaming service providers.
807.5.	Interactive gaming service provider registration and certification term and renewal.
807.6.	Authorized interactive gaming service providers list; prohibited interactive gaming service providers.
807.7.	Permission to conduct business prior to certification or registration.
807.8.	Emergency interactive gaming service provider.
807.9.	Duty to investigate.

**§ 807.1. General interactive gaming service provider requirements.**

(a) Except as provided in § 807.9 (relating to duty to investigate), an interactive gaming service provider or person seeking to conduct business with an interactive gaming certificateholder or interactive gaming operator shall apply to the Board for certification if the interactive gaming service provider or person is providing:

(1) Data warehousing hosting services unless the hosting service is in a jurisdiction, the standards of which are recognized by the Board, with which the Commonwealth has an interactive agreement, the owner of the hardware is licensed as an interactive gaming operator by the Board and the facility is approved by the Board.

(2) Payment processing and related money-transmitting services with direct contact with a patron’s interactive gaming certificateholder account or the interactive gaming platform.

(3) Customer identity, age verification and geo-location verification used in the conduct of interactive and mobile gaming, regardless of the interactive gaming service provider or person’s contractual relationship with an interactive certificateholder.

(4) Interactive affiliate goods or services and the interactive affiliate is being paid a revenue share. As used in this subsection, “interactive affiliate” means as an individual or entity involved in promoting, marketing and directing business to online gaming sites in exchange for compensation paid based on player activity not a flat fee.

(5) Any other person as determined by the Board.

(b) Except as provided in § 807.9, a gaming service provider or person seeking to conduct business with an interactive gaming certificateholder or interactive gaming operator shall apply to the Board for a registration if the interactive gaming service provider or person is providing goods or services related to interactive gaming or interactive wagering and the interactive gaming service provider or person is not required to be certified as an interactive gaming service provider. This subsection applies to interactive affiliates involved in promoting, marketing and directing business to online gaming sites in exchange for a flat fee.

(c) A holder of an interactive gaming service provider certification, registration or authorization shall have a continuing duty to comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications; statement of conditions; wagering restrictions).

**§ 807.2. Interactive gaming service provider certification applications.**

(a) An interactive gaming service provider seeking certification shall submit an original and one copy of a Certification Application and Disclosure Form. The original, copy and the application fee toward the cost of the investigation of the applicant, as posted on the Board's web site, shall be submitted to the Bureau of Licensing by the interactive gaming service provider unless otherwise directed by the Bureau of Licensing.

(b) In addition to the requirements in subsection (a), an applicant for an interactive gaming service provider certification shall do all of the following:

(1) Submit applications and release authorizations for each individual required to be qualified under § 807.4 (relating to qualification of individuals and entities of certified interactive gaming service providers).

(2) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications; statement of conditions; wagering restrictions).

(c) An applicant for an interactive gaming service provider certification shall reimburse the Board for costs incurred in conducting the investigation of the applicant.

(d) An interactive gaming service provider certification will not be issued until all fees and costs have been paid.

**§ 807.3. Interactive gaming service provider registration applications.**

(a) An interactive gaming service provider seeking registration shall complete an original and one copy of a Gaming Service Provider Registration Form. The original, copy and the application fee toward the cost of the investigation of the applicant, as posted on the Board's web site, shall be submitted to the Bureau of Licensing by the interactive gaming service provider unless otherwise directed by the Bureau of Licensing.

(b) In addition to the materials required under subsection (a), an applicant for an interactive gaming service provider registration shall do all of the following:

(1) Submit release authorizations for each individual required to be qualified under § 807.4 (relating to qualification of individuals and entities of certified interactive gaming service providers).

(2) Comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications; statement of conditions; wagering restrictions).

(3) Submit fingerprints of all of the following individuals in a manner prescribed by the Bureau:

(i) Each officer and director of the registered interactive gaming service provider applicant. For purposes of this subparagraph, "officer" means a president, a chief executive officer, a chief financial officer and a chief operating officer, and any person routinely performing corresponding functions with respect to an organization whether incorporated or unincorporated.

(ii) Each individual who has a direct or indirect ownership or beneficial interest of 10% or more in the registered interactive gaming service provider applicant.

(iii) Each salesperson of a registered interactive gaming service provider applicant who solicits business from, or has regular contact with, any representatives of an interactive certificateholder or interactive gaming operator or any employee of a registered interactive gaming service provider applicant who will be engaging in that conduct.

(c) A person who holds any direct or indirect ownership or beneficial interest in a registered interactive gaming service provider or applicant for interactive gaming service provider registration, or has the right to any profits or distributions directly or indirectly, from the registered interactive gaming service provider or applicant for interactive gaming service provider registration may be required to submit fingerprints if the Bureau determines that the submission of fingerprints of the person is necessary to protect the public interest or to enhance the integrity of gaming in this Commonwealth.

(d) Each of the individuals required to submit fingerprints under subsection (b)(3) shall be found qualified by the Board. An individual who is a gaming or nongaming employee as defined in §§ 401a.3 and 801.2 (relating to definitions) shall obtain a gaming employee occupation permit in accordance with §§ 435a.3 and 808.4 (relating to occupation permit; and interactive gaming employees) or a nongaming employee registration in accordance with §§ 435a.5 and 808.5 (relating to nongaming employee registration; and interactive nongaming employees).

(e) An applicant for an interactive gaming service provider registration shall reimburse the Board for costs incurred in conducting the investigation of the applicant.

(f) An interactive gaming service provider registration will not be issued until all fees and costs have been paid.

**§ 807.4. Qualification of individuals and entities of certified interactive gaming service providers.**

(a) The following individuals shall submit a Pennsylvania Personal History Disclosure Form and be found qualified by the Board:

(1) Each officer and director of a certified interactive gaming service provider or applicant for interactive gaming service provider certification. For the purposes of this paragraph, "officer" means a president, a chief executive officer, a chief financial officer, and a chief operating officer and any person routinely performing corresponding functions with respect to an organization whether incorporated or unincorporated.

(2) Each individual who has a direct or indirect ownership or beneficial interest of 10% or more in the certified interactive gaming service provider or applicant for interactive gaming service provider certification. A certified interactive gaming service provider or applicant for interactive gaming service provider certification shall provide information or documentation requested by the Board necessary to determine compliance with this paragraph.

(3) Each salesperson of a certified interactive gaming service provider or applicant for interactive gaming service provider certification who solicits business from, or has regular contact with, any representatives of an interactive certificateholder or interactive gaming operator or any employee of a certified interactive gaming service provider or applicant for interactive gaming service provider certification who will be engaging in that conduct.

(b) Each entity that directly owns 20% or more of the voting securities of a certified interactive gaming service provider or person applying for interactive gaming service provider certification shall file a Certification Form—Private Holding Company with the Bureau of Licensing and be found qualified by the Board.

(c) The following persons may be required to submit a Certification Form—Private Holding Company or a Pennsylvania Personal History Disclosure Form and be found qualified by the Board if the Bureau of Licensing determines that the qualification of the person is necessary to protect the public interest or to enhance the integrity of gaming in this Commonwealth.

(1) An intermediary or holding company of a certified interactive gaming service provider or applicant for interactive gaming service provider certification not otherwise required to be qualified.

(2) An officer or director of an intermediary or holding company of a certified interactive gaming service provider or applicant for interactive gaming service provider certification.

(3) An employee of a certified interactive gaming service provider or applicant for interactive gaming service provider certification.

(4) A person who holds any direct or indirect ownership or beneficial interest in a certified interactive gaming service provider or applicant for interactive gaming service provider certification, or has the right to any profits or distribution, directly or indirectly, from the certified interactive gaming service provider or applicant for interactive gaming service provider certification.

(5) A trustee of a trust that is required to be found qualified under this section.

(d) The Bureau of Licensing may issue a temporary credential to an individual who is required to be qualified by the Board under this section if all of the following apply:

(1) The individual's presence in an interactive gaming restricted area is needed.

(2) The company with which the individual is associated is on the authorized gaming service provider list.

(e) Upon request, the Bureau of Licensing will issue a credential to an individual who has been found qualified under this section if the interactive gaming service provider has been certified.

(f) An employee of a certified or registered interactive gaming service provider who is a gaming or nongaming employee as defined in §§ 401a.3 and 801.2 (relating to definitions) shall obtain a permit under §§ 435a.3 and 808.4 (relating to occupation permit; and interactive gaming employees) or registration under §§ 435a.5 and 808.5 (relating to nongaming employee registration; and interactive nongaming employees).

**§ 807.5. Interactive gaming service provider registration and certification term and renewal.**

(a) Interactive gaming service provider certifications, registrations and renewals issued under this subpart will be valid for 5 years from the date of Board approval.

(b) Registered and certified interactive gaming service providers shall submit to the Board a completed renewal application or form and renewal fee at least 180 days prior to the expiration of a certification, registration or authorization.

(c) A certification or registration for which a completed renewal application and fee has been received by the Bureau of Licensing will continue to be in effect until the Board sends written notification to the holder of the certification or registration that the Board has approved or denied the certification or registration.

**§ 807.6. Authorized interactive gaming service providers list; prohibited interactive gaming service providers.**

(a) The Board will maintain a list of authorized interactive gaming service providers and a list of prohibited interactive gaming service providers. The authorized list will contain the names of persons who have been:

(1) Registered or certified.

(2) Authorized to conduct business with interactive certificateholder or interactive gaming operator under § 437a.9 (relating to permission to conduct business prior to certification or registration).

(b) Except as permitted under §§ 437a.1(a)(2), (d) and (g) and 437a.10 (relating to general gaming service provider requirements; and emergency gaming service provider), an interactive gaming certificateholder or interactive gaming operator may not purchase goods or services from an interactive gaming service provider unless the interactive gaming service provider is on the authorized interactive gaming service provider list. A slot machine licensee, interactive gaming certificateholder or interactive gaming operator or applicant or any affiliate, intermediary, subsidiary or holding company thereof acting on behalf of the slot machine licensee, interactive gaming certificateholder, interactive gaming operator or applicant may not enter into an agreement or continue to do business with an interactive gaming service provider on the prohibited gaming service providers list.

(c) The Board may place a person on the prohibited interacted gaming service provider list if all of the following apply:

(1) The interactive gaming service provider has failed to comply with this chapter.

(2) The interactive gaming service provider has failed to cooperate with Board staff in its review and investigation of the interactive gaming service provider's application.

(3) The interactive gaming service provider's application for certification or registration has been denied or withdrawn with prejudice or the interactive gaming service provider has had its interactive gaming service provider certification or registration suspended or revoked.

(4) The interactive gaming service provider has failed to provide information to a slot machine licensee, an interactive gaming certificateholder or interactive gaming operator that is necessary for the slot machine licensee, interactive gaming certificateholder or interactive gaming operator to comply with this chapter.

(d) A person seeking to be removed from the list of prohibited interactive gaming service providers shall file a petition for removal in accordance with § 493a.4 (relating to petitions generally) and shall be responsible for all costs associated with the person's petition for removal from the list of prohibited interactive gaming service providers. The petition must state the specific grounds believed by the petitioner to constitute good cause for removal from the prohibited interactive gaming service providers list and how the interactive gaming service



provider has cured any deficiencies that led to the interactive gaming service provider being placed on the prohibited interactive gaming service providers list.

(e) The Board may impose a monetary penalty or other appropriate sanction in connection with the removal of a person from the list of prohibited interactive gaming service providers, or attach any reasonable condition to the removal of a person from the list of prohibited interactive gaming service providers.

**§ 807.7. Permission to conduct business prior to certification or registration.**

(a) Notwithstanding § 807.1 (relating to general interactive gaming service provider requirements), the Bureau of Licensing may authorize an applicant for an interactive gaming service provider certification or registration to conduct business with a slot machine licensee, an interactive gaming certificateholder or interactive gaming operator prior to the certification or registration of the interactive gaming service provider applicant if all of the following criteria are met:

(1) A completed Gaming Service Provider Registration Form has been filed by the interactive gaming service provider or a completed Gaming Service Provider Certification Application and Disclosure Information Form has been filed by the slot machine licensee, interactive gaming certificateholder or interactive gaming operator in accordance with § 807.2 or § 807.3 (relating to interactive gaming service provider certification applications; and interactive gaming service provider registration applications).

(2) The slot machine licensee, interactive gaming certificateholder or interactive gaming operator certifies that it has performed due diligence on the interactive gaming service provider.

(3) The applicant for an interactive gaming service provider registration or certification agrees, in writing, that the grant of permission to conduct business prior to registration or certification does not create a right to continue to conduct business and that the Bureau of Licensing may rescind, at any time, the authorization granted pursuant to this section, with or without prior notice to the applicant, if the Bureau of Licensing is informed that the suitability of the applicant may be at issue or the applicant fails to cooperate in the application or investigatory process.

(b) If the Office of Enforcement Counsel issues a Notice of Recommendation for Denial to an applicant for certification or registration, the Bureau of Licensing may rescind the permission granted to the applicant for certification or registration to conduct business with a slot machine licensee, interactive gaming certificateholder, interactive gaming operator or applicant under subsection (a). If the permission is rescinded, the applicant for certification or registration shall cease conducting business with the slot machine licensee, interactive gaming certificateholder, interactive gaming operator or applicant by the date specified in the notice of the rescission by the Bureau of Licensing under subsection (c).

(c) The Bureau of Licensing will notify the applicant for certification or registration and the slot machine licensee, interactive gaming certificateholder, interactive gaming operator or applicant by registered mail and e-mail that permission for the applicant for certification or registration to conduct business with the slot machine licensee, interactive gaming certificateholder, interactive gaming operator or applicant under subsection (a) has been rescinded and that the slot machine licensee, inter-

active gaming certificateholder, interactive gaming operator or applicant shall cease conducting business with the applicant for certification or registration by the date specified in the notice.

**§ 807.8. Emergency interactive gaming service provider.**

(a) An interactive gaming certificateholder or interactive gaming operator may utilize an interactive gaming service provider that is not registered, certified or authorized to conduct business in accordance with § 807.7 (relating to permission to conduct business prior to certification or registration) when a threat to public health, welfare or safety exists or circumstances outside the control of the slot machine licensee, interactive gaming certificateholder or interactive gaming operator create an urgency of need which does not permit the delay involved in using the formal method of interactive gaming service provider certification or registration. A slot machine licensee, interactive gaming certificateholder or interactive gaming operator may not use an interactive gaming service provider on the prohibited list.

(b) When using an interactive gaming service provider that is not registered, certified or authorized to conduct business to respond to an emergency, the slot machine licensee, interactive gaming certificateholder or interactive gaming operator shall do all of the following:

(1) Immediately notify the Bureau of Licensing of the emergency and the interactive gaming service provider that was selected to provide emergency services.

(2) File an Interactive Gaming Service Provider Emergency Notification Form with the Bureau of Licensing within 72 hours after commencement of the interactive gaming service provider's services and a written explanation of the basis for the procurement of the emergency interactive gaming service provider.

(c) An employee of the emergency interactive gaming service provider who is providing emergency services that requires access to an interactive gaming restricted area shall obtain a temporary access credential in accordance with § 808.7 (relating to emergency and temporary credentials) prior to performing any work.

(d) If the slot machine licensee, interactive gaming certificateholder or interactive gaming operator continues to utilize the interactive gaming service provider after the emergency circumstances have passed or if the Bureau of Licensing determines that the circumstances did not necessitate the use of an emergency interactive gaming service provider that was not registered, certified or on the authorized list, the slot machine licensee, interactive gaming certificateholder, interactive gaming operator and interactive gaming service provider shall comply with this chapter.

**§ 807.9. Duty to investigate.**

(a) A slot machine licensee, interactive gaming certificateholder or interactive gaming operator shall investigate the background and qualifications of the applicants for interactive gaming service provider registration or certification with whom it intends to have a contractual relationship or enter into an agreement.

(b) A slot machine licensee, interactive gaming certificateholder or interactive gaming operator shall have an affirmative duty to avoid agreements or relationships with persons applying for an interactive gaming service provider registration or certification whose background or associations are injurious to the public health, safety, morals, good order and general welfare of the residents of



this Commonwealth, or who threaten the integrity of gaming in this Commonwealth.

(c) A slot machine licensee, an interactive gaming certificateholder or interactive gaming operator shall have a duty to inform the Board of an action by an applicant for or holder of an interactive gaming service provider registration or certification, which the slot machine licensee, interactive gaming certificateholder or interactive gaming operator believes would constitute a violation of the act or this part.

**CHAPTER 808. INTERACTIVE GAMING PRINCIPALS AND KEY, GAMING AND NONGAMING EMPLOYEES—TEMPORARY REGULATIONS**

Sec.  
 808.1. General provisions.  
 808.2. Interactive gaming principals.  
 808.3. Interactive key employees.  
 808.4. Interactive gaming employees.  
 808.5. Interactive nongaming employees.  
 808.6. Board credentials.  
 808.7. Emergency and temporary credentials.  
 808.8. Loss, theft or destruction of credentials.

**§ 808.1. General provisions.**

(a) An individual seeking a principal, key employee license, gaming employee occupation permit or nongaming employee registration to participate in interactive gaming in this Commonwealth shall apply to the Board as follows:

(1) Principal and key employee applicants shall submit an original and one copy of a completed Multi-Jurisdictional Personal History Disclosure Form as well as an original and one copy of a completed Principal/Key Employee Form—Pennsylvania Supplement to the Multi-Jurisdictional Personal History Disclosure Form.

(2) Gaming employee occupation permit and nongaming employee registration applicants shall submit the Gaming Employee or Nongaming Employee Registration Application using the SLOTS Link.

(3) All applicants shall submit the nonrefundable application fee posted on the Board’s web site.

(b) In addition to the materials required in subsection (a), an applicant shall comply with the general application requirements in Chapters 421a and 423a (relating to general provisions; and applications; statement of conditions; wagering restrictions).

(c) The holder of a principal, key employee license, gaming employee occupation permit or nongaming employee registration shall provide an updated photograph at the request of Board staff.

(d) An applicant for a gaming employee occupation permit or nongaming employee registration shall be at least 18 years of age.

(e) After reviewing the application and the results of the applicant’s background investigation, the Board may issue a principal license, key employee license, gaming employee occupation permit or nongaming employee registration if the individual has proven that he is a person of good character, honesty and integrity, and is eligible and suitable to be licensed as a principal, key employee, gaming employee or nongaming employee.

(f) Slot machine licensees, interactive gaming certificateholders, interactive gaming operators, interactive gaming manufacturers, interactive gaming suppliers and interactive gaming service providers that hire an individual who holds a key employee license, gaming

employee occupation permit or registration issued by the Board shall contact the Bureau of Licensing to confirm that the individual’s key employee license, gaming employee occupation permit or registration is in good standing prior to allowing the individual to perform work associated with interactive gaming in this Commonwealth.

(g) An individual who holds a principal license, key employee license, gaming employee occupation permit or registration is subject to all of the following wagering restrictions relative to interactive gaming:

(1) An individual whose job duties include interactive gaming and who holds a license, permit or registration and is currently employed by or is a principal of an interactive certificateholder may not place wagers on web sites offered by or associated with the interactive certificate holder. The licensed, permitted or registered individual shall wait at least 30 days following the date that the individual is no longer employed in a position that includes interactive gaming job duties before the individual may wager on web sites offered by or associated with the interactive certificate holder.

(2) An individual who holds a license, permit or registration and is currently employed by or is a principal of an interactive gaming operator may not wager on web sites operated by the interactive gaming operator. The licensed, permitted or registered individual shall wait at least 30 days following the date that the individual is no longer employed by the interactive gaming operator before the individual may wager on web sites operated by the interactive gaming operator.

(3) An individual whose job duties include interactive gaming and who holds a license, permit or registration and is currently employed by or is a principal of an interactive manufacturer or interactive supplier may not wager on web sites associated with interactive certificateholders in this Commonwealth that offer games or use equipment manufactured, supplied, developed or programmed by the interactive manufacturer or interactive supplier.

**§ 808.2. Interactive gaming principals.**

(a) Principals, as defined in §§ 401a.3 and 433a.1 (relating to definitions), shall submit an application for licensure as described in this section.

(b) A principal license and the renewal thereof is valid for 5 years from the date of approval of the application by the Board.

(c) A renewal application for a principal license shall be filed at least 6 months prior to expiration of the current license.

(d) A principal license for which a completed renewal application and fee has been received by the Board will continue in effect until acted upon by the Board.

(e) A principal license issued under this subpart will be only be valid for the licensed or certified entity with which the principal is associated.

**§ 808.3. Interactive key employees.**

(a) Key employees, as defined in §§ 401a.3 and 801.2 (relating to definitions), shall submit an application for licensure as described in § 808.2 (relating to interactive gaming principals).

(b) A key employee license and the renewal thereof is valid for 5 years from the date of approval of the application by the Board.

(c) A renewal application for a key employee license shall be filed at least 6 months prior to expiration of the current license.

(d) A key employee license for which a completed renewal application and fee has been received by the Board will continue in effect until acted upon by the Board.

(e) A key employee license issued under this subpart will be valid for employment with any licensed or certified entity.

**§ 808.4. Interactive gaming employees.**

(a) Gaming employees, as defined in §§ 401a.3 and 801.2 (relating to definitions), shall submit an application for licensure as described in § 808.2 (relating to interactive gaming principals).

(b) In addition to the materials required to be submitted under this subpart, gaming employee occupation permit applicants shall submit verification of an offer of employment from a licensed or certified entity.

(c) A gaming employee occupation permit and the renewal thereof is valid for 5 years from the date of approval of the application by the Board.

(d) A renewal application for a gaming employee occupation permit shall be filed at least 6 months prior to expiration of the current permit.

(e) A gaming employee occupation permit for which a completed renewal application and fee has been received by the Board will continue in effect until acted upon by the Board.

(f) An individual who wishes to receive a gaming employee occupation permit under this subpart may authorize an applicant for or holder of a slot machine license, interactive gaming certificate, interactive gaming operator license, interactive gaming manufacturer license, interactive gaming supplier license, or interactive gaming service provider certification or registration to file an application on the individual's behalf.

(g) A gaming employee occupation permit issued under this chapter will be valid for employment with any licensed, certified or registered entity.

**§ 808.5. Interactive nongaming employees.**

(a) Nongaming employees, as defined in § 401a.3 (relating to definitions), shall submit an application for licensure as described in § 808.2 (relating to interactive gaming principals).

(b) In addition to the materials required to be submitted under this subpart, nongaming employee registration applicants shall submit verification of an offer of employment from a licensed or certified entity.

(c) A nongaming employee registration and the renewal thereof is valid for 5 years from the date of approval of the application by the Board.

(d) A renewal application for a nongaming employee registration shall be filed at least 6 months prior to expiration of the current registration.

(e) A nongaming employee registration for which a completed renewal application and fee has been received by the Board will continue in effect until acted upon by the Board.

(f) An individual who wishes to receive a nongaming employee registration under this subpart may authorize an applicant for or holder of a slot machine license, interactive gaming certificate, interactive gaming opera-

tor license, interactive gaming manufacturer license, interactive gaming supplier license, or interactive gaming service provider certification or registration to file an application on the individual's behalf.

(g) A nongaming employee registration issued under this chapter will be valid for employment with any licensed, certified or registered entity.

**§ 808.6. Board credentials.**

The individuals required to be licensed, permitted or registered under this subpart shall obtain a Board credential as described in this subpart.

**§ 808.7. Emergency and temporary credentials.**

The individuals required to be licensed, permitted or registered under this subpart may obtain an emergency or temporary Board credential as described in §§ 435a.7 and 435.8 (relating to emergency credentials; and temporary credentials).

**§ 808.8. Loss, theft or destruction of credentials.**

(a) As soon as possible, but no later than 24 hours following the loss, theft or destruction of a Board credential, emergency credential or temporary credential, the person to whom the credential was issued shall notify the Bureau of Licensing.

(b) The slot machine licensee, interactive gaming certificateholder or interactive gaming operator licensee, on behalf of an employee whose Board-issued credential was lost, stolen or destroyed, may request a replacement Board credential by submitting a Request for Duplicate PGCB Credential Form and the fee established by the Board to the Bureau of Licensing.

[Pa.B. Doc. No. 18-394. Filed for public inspection March 16, 2018, 9:00 a.m.]

## Title 58—RECREATION

### PENNSYLVANIA GAMING CONTROL BOARD

#### [ 58 PA. CODE CHS. 1101—1120 ]

#### Video Gaming at Licensed Truck Stop Establishments; Temporary Regulations

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. §§ 3301 and 3302 (relating to powers of board; and regulatory authority of board) and the specific authority in 4 Pa.C.S. § 3303 (relating to temporary regulations), promulgates temporary regulations governing the licensing, conduct and regulatory oversight of video gaming in this Commonwealth to read as set forth in Annex A.

#### *Purpose of this Temporary Rulemaking*

This temporary rulemaking will provide a regulatory oversight structure for the conduct of video gaming at licensed truck stop establishments in this Commonwealth.

This temporary rulemaking is necessary to implement 4 Pa.C.S. Part III (relating to video gaming). The intent of 4 Pa.C.S. Part III is to provide truck stops that meet certain eligibility criteria the option of providing video gaming through a terminal operator licensee on the premises of the licensed truck stop establishment, and to ensure the integrity of the acquisition and operation of the video gaming terminals, redemption terminals and associated equipment. See 4 Pa.C.S. § 3301.

*Explanation*

Subpart N (relating to video gaming) establishes the complete regulatory package necessary for the Board to begin licensing truck stop establishments that elect to host video gaming activities, terminal operators who place and operate video gaming terminals in truck stop establishments, manufacturers, suppliers and gaming service providers. In addition, Subpart N provides for testing of all equipment used in video gaming operations, and establishes rules for the possession of video gaming terminals, accounting, internal controls and the conduct of video gaming in this Commonwealth. Finally, Subpart N addresses compulsive and problem gambling, self-exclusion and Board-imposed exclusion upon persons whose presence in a video gaming area would be inimical to the Commonwealth's interests.

Subpart N establishes a broad regulatory oversight structure for video gaming. Section 1101.2 (relating to definitions) provides the relevant definitions used throughout Subchapter N for the conduct of video gaming.

Subpart N identifies six categories of licensees based upon the statutory criteria for licensure in 4 Pa.C.S. Part III. See generally 4 Pa.C.S. §§ 3502—3520. The categories of persons subject to licensure include terminal operators, establishment licensees, principals, key employees, suppliers, manufacturers and occupation permittees. Chapters 1102—1109 establish the application and general requirements under which a terminal operator, establishment licensee, principal, key employee supplier, manufacturer and video gaming terminal occupation permittees shall apply to the Board for approval to participate in the regulated conduct of video gaming.

Chapters 1101—1111 provide for a preliminary review of applications, followed by the processing of applications by Board staff, addressing deficient and abandoned applications, avenues for withdrawing an application from consideration, and the terms and renewal periods for licenses.

Chapter 1112 (relating to video gaming terminal, redemption terminal and associated equipment testing and certification—temporary regulations) addresses the testing and certification standards and processes for video gaming terminals, redemption terminals and associated equipment used in the conduct of video gaming. Testing of the video gaming terminals, redemption terminals and associated equipment is vital to assuring the proper operation of the machines within statutorily mandated guidelines as well as to assure fairness to patrons utilizing video gaming terminals.

Chapters 1113—1115 (relating to possession of video gaming terminals—temporary regulations; accounting and internal controls—temporary regulations; and record retention—temporary regulations) address the possession of video gaming terminals and establish video gaming accounting and internal control, as well as record retention requirements. The purpose of these chapters is to ensure accountability for revenues, play of games and overall integrity of the video gaming product.

Chapter 1116 (relating to conduct of video gaming—temporary regulations) establishes standards for the video gaming area, video gaming terminals, redemption terminals, automated teller machines, and restrictions on terminal operators, establishment licensees and employees of licensees in relation to the operation and conduct of video gaming.

Chapter 1117 (relating to video terminal placement agreements—temporary regulations) requires that video

terminal placement agreements between terminal operators and establishment licensees be approved by the Board. It also establishes the standards which those agreements must satisfy to achieve Board approval.

Chapters 1118 and 1119 (relating to compulsive and problem gaming—temporary regulations; and self-exclusion—temporary regulations) relate to problem and compulsive gaming, establish requirements for signage in video gaming areas, the provision of problem gaming information and training, as well as for the creation of a video gaming self-exclusion list and procedures by which individuals may self-exclude from the conduct of video gaming as well as removing oneself from the self-exclusion list.

Chapter 1120 (relating to exclusion of persons from video gaming—temporary regulations) provides a mechanism establishing the Board's mandatory exclusion list and lists the basis upon which exclusion can be imposed, that is, generally if the person's conduct and presence at an establishment licensee's premises would be inimical to the interests of the Commonwealth and licensed gaming therein. This chapter further establishes the process which shall be undertaken to initiate proceedings to exclude a person, including notice and a right to be heard, outlines a licensed establishments obligation to exclude the person, and provides an opportunity for an excluded person to seek his removal from the list of excluded persons.

*Fiscal Impact*

*Commonwealth*

The Board expects that this temporary rulemaking will have a relatively minimal fiscal impact on the Board and other Commonwealth agencies, which primarily is the result of the need for some additional personnel needed to process applications and review, monitor and regulate the conduct of video gaming. Some of the additional duties will be absorbed by existing Board staff. The costs of this temporary rulemaking will be paid for by an assessment against the gross terminal revenue generated by terminal operator licensees.

*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. The decision to participate in video gaming by an eligible truck stop establishment is not mandated by 4 Pa.C.S. Part III but is left to the discretion of those qualifying establishments.

If pursued, there will be some equipment costs for video gaming terminals, redemption terminals, and surveillance and security-related equipment, as well as some limited renovation within the truck stop premises to obtain a segregated video gaming area. In addition, regulated video gaming terminal operators and establishment licensees may need to hire, train and license a limited number of staff in the conduct of video gaming. Costs incurred to hire, train and license employees or purchase/lease equipment should be offset by the proceeds of the video gaming activity.

*General public*

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



*Paperwork Requirements*

A terminal operator, establishment licensee, manufacturer, supplier and person employed by those entities will be required to file applications with the Board providing information regarding the person's proposed activity, security and surveillance, accounting and internal control protocols and background information of each individual sufficient to permit the Board to determine the individual's suitability for licensure.

*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 addressed to R. Douglas Sherman, Chief Counsel, Attention: Regulation # 125-211 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. § 3303, the Board is granted the authority to promulgate temporary regulations which shall expire no later than 2 years following publication of 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)). The authority to adopt temporary regulations expires 2 years after the publication of the temporary regulations, after which regulations adopted by the Board will be promulgated as provided by law.

*Findings*

The Board finds that:

(1) Under 4 Pa.C.S. § 3303, the temporary regulations are exempt from the requirements of 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 III.

*Order*

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

(1) The regulations of the Board, 58 Pa. Code, are amended by adding temporary §§ 1101.1, 1101.2, 1102.1—1102.3, 1103.1—1103.3, 1104.1, 1105.1, 1106.1, 1107.1, 1108.1—1108.3, 1109.1, 1109.2, 1110.1—1110.4, 1111.1, 1112.1—1112.17, 1113.1—1113.5, 1113.7, 1114.1, 1115.1, 1116.1—1116.8, 1117.1, 1117.2, 1118.1—1118.5, 1119.1—1119.5 and 1120.1—1120.9 to read as set forth in Annex A.

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

(3) The 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 on March 17, 2020.

DAVID M. BARASCH,  
Chairperson

**Fiscal Note:** 125-211. No fiscal impact; (8) recommends adoption.

**Annex A****TITLE 58. RECREATION****PART VII. GAMING CONTROL BOARD****Subpart N. VIDEO GAMING**

<b>Chap.</b>	<b>VIDEO GAMING GENERALLY—TEMPORARY REGULATIONS</b>
<b>1101.</b>	<b>TERMINAL OPERATOR LICENSEES—TEMPORARY REGULATIONS</b>
<b>1102.</b>	<b>ESTABLISHMENT LICENSEES—TEMPORARY REGULATIONS</b>
<b>1103.</b>	<b>PRINCIPALS—TEMPORARY REGULATIONS</b>
<b>1104.</b>	<b>KEY EMPLOYEES—TEMPORARY REGULATIONS</b>
<b>1105.</b>	<b>SUPPLIERS—TEMPORARY REGULATIONS</b>
<b>1106.</b>	<b>MANUFACTURERS—TEMPORARY REGULATIONS</b>
<b>1107.</b>	<b>GAMING SERVICE PROVIDERS—TEMPORARY REGULATIONS</b>
<b>1108.</b>	<b>OCCUPATION PERMITS—TEMPORARY REGULATIONS</b>
<b>1109.</b>	<b>APPLICATIONS GENERALLY—TEMPORARY REGULATIONS</b>
<b>1110.</b>	<b>LICENSE TERMS AND RENEWALS—TEMPORARY REGULATIONS</b>
<b>1111.</b>	<b>VIDEO GAMING TERMINAL, REDEMPTION TERMINAL AND ASSOCIATED EQUIPMENT TESTING AND CERTIFICATION—TEMPORARY REGULATIONS</b>
<b>1112.</b>	<b>POSSESSION OF VIDEO GAMING TERMINALS—TEMPORARY REGULATIONS</b>
<b>1113.</b>	<b>ACCOUNTING AND INTERNAL CONTROLS—TEMPORARY REGULATIONS</b>
<b>1114.</b>	<b>RECORD RETENTION—TEMPORARY REGULATIONS</b>
<b>1115.</b>	<b>CONDUCT OF VIDEO GAMING—TEMPORARY REGULATIONS</b>
<b>1116.</b>	<b>VIDEO TERMINAL PLACEMENT AGREEMENTS—TEMPORARY REGULATIONS</b>
<b>1117.</b>	<b>COMPULSIVE AND PROBLEM GAMING—TEMPORARY REGULATIONS</b>
<b>1118.</b>	<b>SELF-EXCLUSION—TEMPORARY REGULATIONS</b>
<b>1119.</b>	<b>EXCLUSION OF PERSONS FROM VIDEO GAMING—TEMPORARY REGULATIONS</b>
<b>1120.</b>	

**CHAPTER 1101. VIDEO GAMING GENERALLY—TEMPORARY REGULATIONS**

<b>Sec.</b>	
1101.1.	Scope.
1101.2.	Definitions.

**§ 1101.1. Scope.**

The purpose of this subpart is to govern the operation of video gaming terminals in this Commonwealth. Parts I, II and III of 4 Pa.C.S. (relating to amusements generally; gaming; and video gaming) and the Board's regulations promulgated thereunder otherwise apply when not in conflict with this subpart.

**§ 1101.2. Definitions.**

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

*Applicant*—A person who, on his own behalf or on behalf of another, applies for permission to engage in an act or activity that is regulated under this subpart.

*Associated equipment*—Equipment or a mechanical, electromechanical or electronic contrivance, component or



machine used in connection with video gaming terminals or redemption terminals, including replacement parts, hardware and software.

*Background investigation*—A security, criminal, credit and suitability investigation of a person as provided for in this part that includes the status of taxes owed to the United States, the Commonwealth and political subdivisions.

*Bureau*—The Bureau of Investigations and Enforcement of the Board.

*Bureau of Licensing*—The Bureau of Licensing of the Board.

*Cash*—United States currency and coin.

*Cash equivalent*—A ticket, token, chip, card or other similar instrument or representation of value that the Board deems a cash equivalent in accordance with this part.

*Central control computer*—A central site computer controlled by the Department and accessible by the Board to which all video gaming terminals communicate for the purpose of auditing capacity, real-time information retrieval of the details of a financial event that occurs in the operation of a video gaming terminal or redemption terminal, including coin in, coin out, ticket in, ticket out, jackpots, video gaming terminal and redemption terminal door openings and power failure, and remote video gaming terminal or redemption terminal activation, and disabling of video gaming terminals or redemption terminals.

*Cheat*—

(i) To defraud or steal from a player, terminal operator licensee, establishment licensee or the Commonwealth while operating or playing a video gaming terminal, 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 that determine:

- (A) The result of a video gaming terminal game.
- (B) The amount or frequency of payment in a video gaming terminal game.
- (C) The value of a wagering instrument.
- (D) The value of a wagering credit.

(iii) The term does not include altering a video gaming terminal or associated equipment for maintenance or repair with the approval of a terminal operator licensee and the Board.

*Cheating or thieving device*—A device, software or hardware used or possessed with the intent to be used to cheat during the operation or play of a video gaming terminal. The term includes any device, software or hardware used to alter a video gaming terminal without the terminal operator licensee's and the Board's approval.

*Commercial motor vehicle*—As defined in 75 Pa.C.S. § 1603 (relating to definitions).

*Conduct of video gaming*—The licensed placement, operation and play of video gaming terminals under this subpart as authorized and approved by the Board.

*Convenience store*—A retail establishment which sells a limited selection of packaged foods, drug store items, food

for consumption on or off the premises, and basic supplies for the home and table, which may include the retail sale of liquid fuels.

*Conviction*—

(i) A finding of guilt or a plea of guilty or nolo contendere, whether or not a judgment of sentence has been imposed as determined by the law of the jurisdiction in which the prosecution was held.

(ii) The term does not include a conviction that has been expunged or overturned or for which an individual has been pardoned or had an order of accelerated rehabilitative disposition entered.

*Corporation*—The term includes a publicly traded corporation.

*Establishment license*—A license issued by the Board authorizing a truck stop establishment to permit a terminal operator licensee to place and operate video gaming terminals on the truck stop establishment's premises under this part.

*Establishment licensee*—A truck stop establishment that holds an establishment license.

*Financial backer*—An investor, mortgagee, bondholder, noteholder, or other sources of equity or capital provided to an applicant or licensed entity.

*Gaming employee*—

(i) Any of the following individuals:

(A) An employee of a terminal operator licensee, establishment licensee or supplier licensee that is not a key employee who is involved in the conduct of video gaming, including servicing and maintaining video gaming terminals, redemption terminals, and security and surveillance equipment, and monitoring the conduct of video gaming and patrons in the video gaming area of an establishment licensee.

(B) An employee of a supplier or manufacturer licensee whose duties are directly involved with the repair or distribution of video gaming terminals or associated equipment sold or provided to a terminal operator licensee in this Commonwealth as determined by the Board.

(C) An employee of a gaming service provider who, in connection with the performance of his duties, has access to a video gaming area, video terminals, redemption terminals, and the security and surveillance systems monitoring a video gaming area.

(ii) The term does not include nongaming personnel as determined by the Board or an employee of an establishment licensee who does not have duties involving the conduct or monitoring of video gaming.

*Gaming service provider*—

(i) A person who is not required to be licensed as a terminal operator, manufacturer, supplier or establishment licensee who provides goods or services to a terminal operator licensee that directly relates to the operation and security of a video gaming terminal or redemption terminal.

(ii) The term does not include a person who supplies goods or services that, at the discretion of the Board, does not impact the integrity of video gaming, video gaming terminals or the connection of video gaming terminals to the central control computer system, including all of the following:

(A) Seating to accompany video gaming terminals.

(B) Structural or cosmetic renovations, improvements or other alterations to a video gaming area.

*Gross terminal revenue*—

(i) The total of cash or cash equivalents received by a video gaming terminal minus the total of cash or cash equivalents paid out to players as a result of playing a video gaming terminal.

(ii) The term does not include counterfeit cash or cash taken in a fraudulent act perpetrated against a terminal operator licensee for which the terminal operator licensee is not reimbursed.

*Incentive*—Consideration, including a promotion or prize, provided to a player or potential player as an enticement to play a video gaming terminal.

*Inducement*—

(i) Any of the following:

(A) Consideration paid directly or indirectly, from a manufacturer, supplier, terminal operator, procurement agent, gaming employee, employee or another person on behalf of an applicant or anyone licensed under this part, to a truck stop establishment, establishment licensee, establishment licensee owner or an employee of the establishment licensee, directly or indirectly, as an enticement to solicit or maintain the establishment licensee or establishment licensee owner's business.

(B) Cash, incentive, marketing and advertising cost, gift, food, beverage, loan, prepayment of gross terminal revenue and other contribution or payment that offsets an establishment licensee's operational costs, or as otherwise determined by the Board.

(ii) The term does not include costs paid by a terminal operator applicant or terminal operator licensee related to making video gaming terminals operate at the premises of an establishment licensee, including for improvements and renovations to the video gaming area, wiring and rewiring, software updates, ongoing video gaming terminal maintenance, redemption terminals, network connections, site controllers and costs associated with communicating with the central control computer system.

*Key employee*—An individual who is employed by a manufacturer licensee, supplier licensee or terminal operator licensee who is determined by the Board to be a director or department head or otherwise empowered to make discretionary decisions that regulate the conduct of video gaming.

*Key employee licensee*—An individual who holds a key employee license.

*Key employee qualifier*—An individual required to be qualified as part of the truck stop establishment who is determined by the Board to be a director or department head or otherwise empowered to make discretionary decisions that regulate the conduct of video gaming.

*Law enforcement authority*—The power to conduct investigations of or to make arrests for criminal offenses.

*Licensed entity*—A terminal operator licensee, establishment licensee, manufacturer licensee or supplier licensee under this part.

*Licensed facility*—As defined in section 1103 of the act (relating to definitions).

*Licensed gaming entity*—As defined in section 1103.

*Licensee*—A person listed under this part.

*Manufacturer*—A person who manufactures, builds, re-builds, fabricates, assembles, produces, programs, designs or otherwise makes modifications to a video gaming terminal, redemption terminal or associated equipment for use or play of video gaming terminals in this Commonwealth for video gaming purposes.

*Manufacturer license*—A license issued by the Board authorizing a manufacturer to manufacture or produce video gaming terminals, redemption terminals or associated equipment for use in this Commonwealth for video gaming purposes.

*Manufacturer licensee*—A person that holds a manufacturer license.

*Minor*—An individual under 21 years of age.

*Nongaming employee*—An individual who is employed by a terminal operator licensee, manufacturer licensee, supplier licensee, gaming service provider or establishment licensee and whose duties do not involve the conduct of video gaming or the monitoring of a video gaming area, either directly or through surveillance.

*Nonkey employee*—An individual employed by a terminal operator licensee who, unless otherwise designated by the Board, is not a key employee.

*Occupation permit*—A permit authorizing an individual to be employed or to work as a gaming employee for a terminal operator licensee, an establishment licensee, a gaming service provider, a supplier licensee or as an employee of a manufacturer who performs duties at the premises of a terminal operator or establishment licensee relating to video gaming terminals or redemption terminals.

*Permittee*—A holder of a permit issued under this part.

*Person*—A natural person, corporation, foundation, organization, business trust, estate, limited liability company, trust, partnership, limited liability partnership, association or other form of legal business entity.

*Player*—An individual who wagers cash or a cash equivalent in the play or operation of a video gaming terminal and the play or operation of which may deliver or entitle the individual playing or operating the video gaming terminal to receive cash or a cash equivalent from a terminal operator licensee.

*Principal*—An officer, director or person who directly holds a beneficial interest in or ownership of the securities of an applicant or licensee under this part as a terminal operator, manufacturer or supplier or who has a controlling interest in an applicant or licensee as a terminal operator, manufacturer or supplier under this part or has the ability to elect a majority of the board of directors of a terminal operator, manufacturer or supplier licensee or to otherwise control anyone licensed under this part, procurement agent, lender or other licensed financial institution of an applicant or a terminal operator, manufacturer or supplier licensee under this part, other than a bank or lending institution which makes a loan or holds a mortgage or other lien acquired in the ordinary course of business, underwriter of an applicant or anyone licensed under this part or other person or employee of a terminal operator licensee, establishment licensee, manufacturer licensee or supplier licensee deemed to be a principal by the Board, including a procurement agent.

*Principal qualifier*—Each owner, officer and director of the truck stop establishment who is required to be qualified as part of the truck stop establishment applica-

tion. For purposes of this definition, an owner is each individual who has a direct or indirect ownership or beneficial interest of 10% or more in the truck stop establishment or other person as determined by the Board. An officer is a president, chief executive officer, a chief financial officer and a chief operating officer, and any person routinely performing corresponding functions with respect to an organization whether incorporated or unincorporated.

*Procurement agent*—A person that shares in the gross terminal revenue or is otherwise compensated for the purpose of soliciting or procuring a terminal placement agreement.

*Progressive payout*—A video game terminal wager payout that increases in a monetary amount based on the amounts wagered in a progressive system.

*Progressive system*—A computerized system linking video gaming terminals on the premises of an establishment licensee and offering one or more common progressive payouts based on the amounts wagered.

*Publicly traded corporation*—A person, other than an individual, who:

- (1) Has a class or series of securities registered under the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78a—78qq).
- (2) Is a registered management company under the Investment Company Act of 1940 (15 U.S.C.A. §§ 80a-1—80a-64).
- (3) Is subject to the reporting obligations imposed by section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.A. § 78o(d)) by reason of having filed a registration statement that has become effective under the Securities Act of 1933 (15 U.S.C.A. §§ 77a—77aa).

*Redemption terminal*—The collective hardware, software, communications technology and other ancillary equipment used to facilitate the payment of cash or a cash equivalent to a player as a result of playing a video gaming terminal.

*Registrant*—A holder of a nongaming registration under this part.

*Security*—As defined in the Pennsylvania Securities Act of 1972 (70 P.S. §§ 1-101—1-703.1).

*Subsidiary*—As defined in section 1103 of the act.

*Supplier*—A person that sells, leases, offers or otherwise provides, distributes or services any video gaming terminal, redemption terminal or associated equipment to a terminal operator licensee for use or play in this Commonwealth.

*Supplier license*—A license issued by the Board authorizing a supplier to provide products or services related to video gaming terminals, redemption terminals or associated equipment to terminal operator licensees for use in this Commonwealth for the conduct of video gaming.

*Supplier licensee*—A person that holds a supplier license.

*Terminal operator*—A person that owns, services or maintains video gaming terminals for placement and operation on the premises of an establishment licensee.

*Terminal operator license*—A license issued by the Board authorizing a terminal operator to place and operate video gaming terminals in an establishment licensee's premises under this part.

*Terminal operator licensee*—A person that holds a terminal operator license.

*Terminal placement agreement*—The formal written agreement or contract between an applicant for a terminal operator license or terminal operator licensee and an applicant for an establishment license or establishment licensee that establishes the terms and conditions regarding the conduct of video gaming.

*Truck stop establishment*—A premises that:

- (i) Is equipped with diesel islands used for fueling commercial motor vehicles.
- (ii) Has sold on average 50,000 gallons of diesel or biodiesel fuel each month for the previous 12 months or is projected to sell an average of 50,000 gallons of diesel or biodiesel fuel each month for the next 12 months.
- (iii) Has at least 20 parking spaces dedicated for commercial motor vehicles as defined in 75 Pa.C.S. § 1603.
- (iv) Has a convenience store.
- (v) Is situated on a parcel of land of not less than 3 acres that the truck stop establishment owns or leases.
- (vi) Is not located on any property owned by the Pennsylvania Turnpike Commission.

*Video gaming area*—The area of an establishment licensee's premises where video gaming terminals and redemption terminals are installed for operation and play.

*Video gaming employees*—The term includes gaming employees, key employees and nonkey employees.

*Video gaming terminal*—

- (i) A mechanical or electrical contrivance, terminal, machine or other device approved by the Board that, upon insertion of cash or cash equivalents, is available to play or operate one or more gambling games, the play of which utilizes a random number generator and:
  - (A) May award a winning player either a free game or credit that shall only be redeemable for cash or cash equivalents at a redemption terminal.
  - (B) May utilize video displays.
  - (C) May use an electronic credit system for receiving wagers and making payouts that are only redeemable at a redemption terminal.
- (ii) Associated equipment necessary to conduct the operation of the contrivance, terminal, machine or other device.
- (iii) The term does not include a slot machine operated at a licensed facility in accordance with the act or a coin-operated amusement game.
- (iv) The term does not include "lottery" as defined in section 302 of the State Lottery Law (72 P.S. § 3761-302).

**CHAPTER 1102. TERMINAL OPERATOR LICENSEES—TEMPORARY REGULATIONS**

Sec.	
1102.1.	Terminal operator licenses.
1102.2.	Terminal operator license issuance and statement of conditions.
1102.3.	Conditional terminal operator licenses.

**§ 1102.1. Terminal operator licenses.**

(a) An applicant for a terminal operator license may conduct video gaming upon approval by the Board and in accordance with 4 Pa.C.S. Part III (relating to video gaming) and this chapter.



(b) An applicant shall submit all of the following:

(1) An original and one copy of the Enterprise Entity Application and Disclosure Information Form shall be submitted on forms approved by the Board.

(2) The nonrefundable application fee of \$25,000 in accordance with 4 Pa.C.S. § 4101(a) (relating to fees).

(3) A diversity plan as set forth in 4 Pa.C.S. § 3307 (relating to diversity).

(4) A current tax lien certificate issued by the Department.

(5) An application for each proposed key employee under Chapter 1105 (relating to key employees—temporary regulations) and principal under Chapter 1104 (relating to principals—temporary regulations) as specified in the Enterprise Entity Application and Disclosure Information Form.

(6) A sworn or affirmed statement that the applicant has developed and implemented internal safeguards and policies to prevent a violation of 4 Pa.C.S. § 4305 (relating to political influence) and a copy of the safeguards and policies.

(7) Details of any loans or other financial commitments to fund license costs and costs of operating video gaming.

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

(9) A consent authorizing the Board to conduct a background investigation, the scope of which is to be determined by the Bureau, in its discretion consistent with 4 Pa.C.S. Part III (relating to video gaming), and a release signed by all persons subject to investigation of all information required to complete the investigation.

(10) Information concerning maintenance and operation of video gaming terminals in other jurisdictions.

(11) Proof that the applicant has or will establish a place of business in this Commonwealth.

(12) A copy of, or a detailed description of, the terms and conditions of any terminal placement agreement entered into with an establishment licensee applicant or licensee.

(13) Any other information as the Board or the Bureau may require.

(c) Upon request of the Board or the Bureau, 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 a time is not specified, within 30 days of the date of the request. If the applicant fails to provide the requested information within the required time period as set forth in the request, the Board may deny the application.

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

(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.

#### § 1102.2. Terminal operator license issuance and statement of conditions.

(a) *Criteria.* In addition to the criteria in 4 Pa.C.S. Part III (relating to video gaming), the Board will not issue a terminal operator license unless all of the following criteria have been established by the applicant:

(1) The applicant has fulfilled each condition set by the Board, 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 terminal operator license.

(b) *Statement of conditions.*

(1) The applicant, as a condition precedent to the issuance of a terminal operator license, 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 contained in the Statement of Conditions by the applicant.

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

#### § 1102.3. Conditional terminal operator licenses.

(a) Upon accepting a terminal operator application for filing, the Board will issue a conditional terminal operator license if the applicant has satisfied, as determined by the Board, all of the following:

(1) The applicant has submitted a completed application for a terminal operator license.

(2) The applicant has never had a similar gaming license denied or revoked in another jurisdiction.

(3) The applicant has never been convicted of a felony in any jurisdiction.

(4) The applicant has never been convicted of a gambling law violation in any jurisdiction.

(5) The applicant is current on all State taxes.

(6) The applicant attests by affidavit under penalty of perjury that the applicant is not otherwise prohibited from licensure under 4 Pa.C.S. Part III (relating to video gaming).

(b) The Board will issue a conditional terminal operator license within 60 days after the completed application has been received by the Board, and the Board has determined that the criteria in subsection (a) have been satisfied.

(c) If the Board determines that the criteria in subsection (a) have not been satisfied, the Board will give the applicant written notice and explanation of that determination.

(d) A conditional license issued under this section will be valid until:

(1) The Board approves or denies the application for a terminal operator license.

(2) The conditional license is terminated for a violation of the act or this part.

(3) One calendar year has passed since the conditional license has been issued.

(e) The Board may extend the duration of a conditional license for one year.



(f) A request for conditional licensure must include a \$100 fee in addition to the applicable fee required under 4 Pa.C.S. § 4101 (relating to fees).

**CHAPTER 1103. ESTABLISHMENT LICENSEES—TEMPORARY REGULATIONS**

- Sec.
- 1103.1. Establishment licenses.
- 1103.2. Establishment principal and key employee qualification.
- 1103.3. Conditional establishment licenses.

**§ 1103.1. Establishment licenses.**

(a) A truck stop establishment in this Commonwealth seeking to offer video gaming terminals through a licensed terminal operator on its premises shall apply for an establishment license by filing an Enterprise Entity Application and Disclosure Information Form with the Board.

(b) To be eligible to file an application for an establishment license, the truck stop establishment must meet all of the following requirements:

(1) Be equipped with diesel islands for the fueling of commercial motor vehicles and have sold on average 50,000 gallons of diesel or biodiesel fuel each month for the previous 12 months or is projected to sell an average of 50,000 gallons of diesel or biodiesel fuel each month for the next 12 months.

(2) Have at least 20 parking spaces dedicated for commercial motor vehicles. For purposes of this paragraph, “parking spaces dedicated for commercial motor vehicles” must be of sufficient size to accommodate vehicles which are 8 feet in width and 53 feet in length or which otherwise have a gross combination weight rating or gross combination weight of 26,000 pounds inclusive of a tow unit with a gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds, whichever is greater.

(3) Have a convenience store.

(4) Be situated on a parcel of land not less than 3 acres and which is not located on property owned by the Pennsylvania Turnpike Commission.

(5) Be licensed as a lottery sales agent under section 305 of the State Lottery Law (72 P.S. § 3761-305).

(c) An applicant for an establishment license shall submit all of the following:

(1) An original and one copy of the Enterprise Entity Application and Disclosure Information Form.

(2) The nonrefundable application fee of \$1,000 in accordance with 4 Pa.C.S. § 4101(a) (relating to fees).

(3) Documentation to establish its eligibility to apply to be an establishment licensee as set forth in subsection (b).

(4) A to-scale schematic or architectural rendering of the floor plan of the establishment which shows all of the following:

- (i) Total square footage of the video gaming area.
- (ii) A depiction of the video gaming area where video gaming will be offered in relation to the overall facility.
- (iii) Location of the video gaming terminals and redemption terminals, and security and surveillance equipment locations.
- (iv) A detailed description of the surveillance to be utilized.

(5) A description of the proposed surveillance and security measures to ensure the security of the proposed video gaming area.

(6) A diversity plan as set forth in 4 Pa.C.S. § 3307 (relating to diversity).

(7) A current tax lien certificate issued by the Department.

(8) Information for each key employee qualifier and principal qualifier as specified in the Enterprise Entity Application and Disclosure Information Form.

(9) The consent to a background investigation by the Bureau of the applicant, its principal qualifiers and key employee qualifiers or other persons required by the Board and a release to obtain the information necessary for the completion of the background investigation.

**§ 1103.2. Establishment principal and key employee qualification.**

(a) In addition to the information required under § 1103.1(c)(8) (relating to establishment licenses), a principal qualifier and key employee qualifier shall apply for qualification as follows:

(1) Submit fingerprints in a manner prescribed by the Bureau.

(2) Consent to a background investigation by the Bureau of the principal qualifier and key employee qualifier and a release to obtain the information necessary for the completion of the background investigation.

(3) Provide any other information required by the Board.

(b) In addition to individuals meeting the definition of principal qualifier and key employee qualifier, the Board may require the submission of fingerprints or any other information required by the Board from a person who holds any direct or indirect ownership or beneficial interest in a truck stop establishment, or has the right to any profits or distributions directly or indirectly, from the truck stop establishment if the Bureau determines that the submission of fingerprints of the person is necessary to protect the public interest or to enhance the integrity of gaming in this Commonwealth.

(c) Each of the individuals required to submit fingerprints under subsection (a) and (b) must be found qualified by the Board. An individual who is found qualified and is also a gaming or nongaming employee as defined in § 401a.3 (relating to definitions) shall obtain a gaming employee occupation permit in accordance with § 435a.3 (relating to occupation permit) or a nongaming employee registration in accordance with § 435a.5 (relating to nongaming employee registration).

**§ 1103.3. Conditional establishment licenses.**

(a) Upon accepting an establishment license application for filing, the Board will issue a conditional establishment license if the applicant has satisfied, as determined by the Board, all of the following:

(1) The applicant has submitted a completed application for an establishment license.

(2) The applicant has never been convicted of a felony in any jurisdiction.

(3) The applicant has never been convicted of a gambling law violation in any jurisdiction.

(4) The applicant is current on all State taxes.

(5) The applicant attests by affidavit under penalty of perjury that the applicant is not otherwise prohibited from licensure under 4 Pa.C.S. Part III (relating to video gaming).

(b) The Board will issue a conditional license within 60 days after the completed application has been received by the Board, and the Board has determined that the criteria in subsection (a) have been satisfied.

(c) If the Board determines that the criteria in subsection (a) have not been satisfied, the Board will give the applicant written notice and explanation of that determination.

(d) A conditional license issued under this section will be valid until:

(1) The Board approves or denies the application for an establishment license.

(2) The conditional license is terminated for a violation of this part.

(3) One calendar year has passed since the conditional license has issued.

(e) The Board may extend the duration of a conditional license for 1 year.

(f) A request for a conditional license must include a \$100 fee which shall be in addition to the applicable fee required under 4 Pa.C.S. § 4101 (relating to fees).

#### CHAPTER 1104. PRINCIPALS— TEMPORARY REGULATIONS

Sec.  
1104.1. Principal licenses.

##### § 1104.1. Principal licenses.

(a) A principal as defined in this subpart shall apply for licensure as a principal in accordance with § 433a.8 (relating to principal applications).

(b) In addition to information required under § 433a.8, an individual required to be licensed as a principal, unless otherwise directed by the Board, shall file all of the following:

(1) Verification of status as a principal from a terminal operator licensee, an establishment licensee, a manufacturer licensee or supplier licensee.

(2) A description of responsibilities as a principal.

(3) Details relating to a similar license, permit or other authorization obtained in another jurisdiction.

(4) The consent to a background investigation by the Bureau of the principal applicant and a release to obtain the information necessary for the completion of the background investigation.

(5) Other information required by the Board.

(c) Following review of the application and background investigation, the Board may issue a principal license if the applicant has proven by clear and convincing evidence that the applicant is a person of good character, honesty and integrity, and is eligible and suitable to be licensed as a principal.

(d) A principal license is not transferable.

(e) A temporary credential, which may be valid up to 270 days, may be issued by the Board to a principal if the Board determines additional time is needed to complete an investigation for licensure.

#### CHAPTER 1105. KEY EMPLOYEES— TEMPORARY REGULATIONS

Sec.  
1105.1. Key employee licenses.

##### § 1105.1. Key employee licenses.

(a) A key employee as defined in this subpart shall apply for licensure as a key employee in accordance with § 435a.2 (relating to key employee license).

(b) In addition to information required under § 435a.2, an individual required to be licensed as a key employee, unless otherwise directed by the Board, shall file all of the following:

(1) Verification of status as a key employee from a terminal operator licensee, an establishment licensee, manufacturer licensee or supplier licensee.

(2) A description of employment responsibilities.

(3) The consent to a background investigation by the Bureau of the applicant, and a release to obtain the information necessary for the completion of the background investigation, including information from governmental agencies, employers and other organizations.

(4) Details relating to a similar license or other authorization obtained in another jurisdiction.

(5) Other information required by the Board.

(c) Following review of the application and background investigation, the Board may issue a key employee license if the applicant has proven by clear and convincing evidence that the applicant is a person of good character, honesty and integrity and is eligible and suitable to be licensed as a key employee.

(d) A key employee license is not transferable.

(e) A temporary credential, which may be valid up to 270 days, may be issued by the Board to a key employee if the Board determines additional time is needed to complete an investigation for licensure.

(f) An individual may not perform duties associated with a position that requires a key employee license prior to receiving a temporary or permanent credential unless otherwise authorized by the Board.

#### CHAPTER 1106. SUPPLIERS— TEMPORARY REGULATIONS

Sec.  
1106.1. Supplier licenses.

##### § 1106.1. Supplier licenses.

(a) *Application for licensure.* A supplier as defined in this subpart shall apply for licensure in accordance with § 431a.2 (relating to supplier license applications and standards).

(b) *Submittals.* In addition to the information submitted under § 431a.2, an applicant for a supplier license shall submit all of the following:

(1) The name and business address of the applicant and the applicant's affiliates, intermediaries, subsidiaries and holding companies, the principals and key employees of each business, and a list of employees and their positions within each business, as well as financial information required by the Board.

(2) A statement that the applicant and each affiliate, intermediary, subsidiary or holding company of the applicant are not terminal operator licensees or establishment licensees.

(3) Proof that the applicant has or will establish a place of business in this Commonwealth. A supplier licensee shall maintain a place of business in this Commonwealth to remain eligible for licensure.

(4) The consent to a background investigation by the Bureau of the applicant, its principals and key employees or other persons required by the Board and a release to obtain the information necessary for the completion of the background investigation.

(5) The details of any supplier license issued by the Board to the applicant under section 1317 of the act (relating to supplier licenses), if applicable.

(6) The details of any equivalent license granted or denied by other jurisdictions where gaming activities as authorized by the act or this part are permitted.

(7) The type of products and services to be supplied and whether those products and services will be provided through purchase, lease, contract or otherwise.

(8) Other information determined by the Board to be appropriate.

(c) *Approval and issuance of license.* Upon being satisfied that the requirements in subsection (a) and (b) have been met, the Board may approve the application and issue the applicant a supplier license consistent with all of the following:

(1) A licensee shall have an affirmative duty to notify the Board of a change relating to the status of its license or to information in the application materials on file with the Board.

(2) The license is nontransferable.

(3) Other conditions established by the Board.

(d) *Considerations.* In determining whether an applicant is suitable to be licensed as a supplier under this section, the Board will consider all of the following:

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

(2) If all principals and key employees of the applicant are eligible and suitable for licensure.

(3) The integrity of financial backers.

(4) The suitability of the applicant and principals and key employees of the applicant based on the satisfactory results of:

(i) A background investigation of the applicant and its principals and key employees.

(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.

(e) *Submittal of agreements.* A supplier shall submit to the Bureau of Licensing for review any agreements with a licensed manufacturer or with a terminal operator licensee. The review may include financing arrangements, inventory requirements, warehouse requirements, warehouse space, technical competency, compensative agreements and other terms or conditions to ensure the financial independence of the supplier licensee from any licensed manufacturer or terminal operator.

(f) *Occupation permit or nongaming registration.* An employee of a supplier licensee who is a gaming employee or nongaming employee as defined in § 1101.2 (relating

to definitions) shall obtain an occupation permit under § 1109.1 (relating to gaming employee occupation permits) or a nongaming registration under § 1109.2 (relating to nongaming employee registrations).

(g) *Change of control of a supplier licensee.*

(1) For purposes of this subsection, a change of control of a supplier licensee will be deemed to have occurred when a person or group of persons acquires:

(i) More than 20% of a supplier licensee's securities, assets or other ownership interests.

(ii) More than 20% of the securities or other ownership interests of a corporation or other form of business entity that owns directly or indirectly at least 20% of the voting or other securities or other ownership interests of the supplier licensee.

(iii) Any other interest in a supplier licensee which allows the acquirer to control the supplier licensee.

(2) A supplier licensee shall notify the Bureau and the Bureau of Licensing by filing a Notification of Proposed Transfer of Interest Form immediately upon becoming aware of any proposed or contemplated change of control of the supplier licensee.

(3) Prior to acquiring a controlling interest in a supplier licensee, the acquirer shall file a petition in accordance with § 493a.4 (relating to petitions generally) requesting Board approval of the acquisition. The petition must include all of the following:

(i) A copy of all documents governing the acquisition.

(ii) Completed applications for the acquiring company, as required under this chapter, principals as required under § 1104.1 (relating to principal licenses) and key employees as required under § 1105.1 (relating to key employee licenses).

(iii) An affirmation that neither the acquirer nor any of its affiliates, intermediaries, subsidiaries or holding companies is a terminal operator licensee or establishment licensee.

(4) A person or group of persons seeking to acquire a controlling interest in a supplier licensee shall promptly provide any additional information requested by the Board and Board staff and cooperate with the Bureau in any investigations related to the petition filed under this subsection.

(5) A person or group of persons may not acquire a controlling interest in a supplier licensee until the petition required under this subsection, has been approved. A person or group of persons seeking to acquire a controlling interest in a supplier licensee and the supplier licensee may enter into a sales agreement that is contingent on Board approval of the petition.

**CHAPTER 1107. MANUFACTURERS—  
TEMPORARY REGULATIONS**

Sec.  
1107.1. Manufacturer licenses.

**§ 1107.1. Manufacturer licenses.**

(a) *Application for licensure.* A manufacturer as defined in this subpart who seeks to manufacture video gaming terminals, redemption terminals and associated equipment for use in this Commonwealth shall apply for licensure in accordance with §§ 427a.1 and 427a.2 (relating to manufacturer general requirements; and manufacturer license applications and standards).



(b) *Submittals.* In addition to the completed Manufacturer Application and Disclosure Information Form required under § 427a.2 an applicant shall include all of the following:

(1) The name and business address of the applicant and the applicant's affiliates, intermediaries, subsidiaries and holding companies, the principals and key employees of each business, and a list of employees and their positions within each business, as well as financial information required by the Board.

(2) A statement that the applicant and each affiliate, intermediary, subsidiary or holding company of the applicant are not terminal operator licensees or establishment licensees.

(3) The consent to a background investigation by the Bureau of the applicant, its principals and key employees or other persons required by the Board and a release to obtain the information necessary for the completion of the background investigation.

(4) The details of any equivalent manufacturer license granted or denied by other jurisdictions where gaming activities as authorized by this part are permitted.

(5) The details of any manufacturer license issued by the Board to the applicant under section 1317.1 of the act (relating to manufacturer licenses), if applicable.

(6) The type of video gaming terminals, redemption terminals or associated equipment to be manufactured or repaired.

(7) Other information determined by the Board or the Bureau to be appropriate.

(c) *Approval and issuance of license.* Upon being satisfied that the requirements in subsection (a) and (b) have been met, the Board may approve the application and issue the applicant a manufacturer license consistent with all of the following:

(1) A licensee shall have an affirmative duty to notify the Board of a change relating to the status of its license or to information in the application materials on file with the Board.

(2) The license shall be nontransferable.

(3) Other conditions established by the Board.

(d) *Considerations.* In determining whether an applicant is suitable to be licensed as a manufacturer under this section, the Board will consider all of the following:

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

(2) If all principals and key employees of the applicant are eligible and suitable for licensure.

(3) The integrity of financial backers.

(4) The suitability of the applicant and principals and key employees of the applicant based on the satisfactory results of:

(i) A background investigation of principals and key employees.

(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.

(e) *Submittal of agreements.* A manufacturer shall submit to the Bureau of Licensing for review any agreements

with a licensed supplier or with a terminal operator licensee. The review may include financing arrangements, inventory requirements, warehouse requirements, warehouse space, technical competency, compensative agreements and other terms or conditions to ensure the financial independence of the licensed manufacturer from any licensed supplier, terminal operator or establishment licensee.

(f) *Occupation permit or nongaming registration.* An employee of a manufacturer licensee who is a gaming employee or nongaming employee as defined in § 1101.2 (relating to definitions) shall obtain an occupation permit under § 1109.1 (relating to gaming employee occupation permits) or a nongaming registration under § 1109.2 (relating to nongaming employee registrations).

(g) *Change of control of a manufacturer licensee.*

(1) For purposes of this subsection, a change of control of a manufacturer licensee will be deemed to have occurred when a person or group of persons acquires:

(i) More than 20% of a manufacturer licensee's securities, assets or other ownership interests.

(ii) More than 20% of the securities or other ownership interests of a corporation or other form of business entity that owns directly or indirectly at least 20% of the voting or other securities or other ownership interests of the manufacturer licensee.

(iii) Any other interest in a manufacturer licensee which allows the acquirer to control the manufacturer licensee.

(2) A manufacturer licensee shall notify the Bureau and the Bureau of Licensing by filing a Notification of Proposed Transfer of Interest Form immediately upon becoming aware of any proposed or contemplated change of control of the manufacturer licensee.

(3) Prior to acquiring a controlling interest in a manufacturer licensee, the acquirer shall file a petition in accordance with § 493a.4 (relating to petitions generally) requesting Board approval of the acquisition. The petition must include all of the following:

(i) A copy of all documents governing the acquisition.

(ii) Completed applications for the acquiring company, as required under this chapter, principals as required under Chapter 433a (relating to principal licenses) and key employees as required under § 435a.2 (relating to key employee license).

(iii) An affirmation that neither the acquirer nor any of its affiliates, intermediaries, subsidiaries or holding companies is a terminal operator licensee or establishment licensee and that the acquirer has neither applied for nor holds a terminal operator license or establishment license.

(4) A person or group of persons seeking to acquire a controlling interest in a manufacturer licensee shall promptly provide any additional information requested by the Board and Board staff and cooperate with the Bureau in any investigations related to the petition filed under subsection (a).

(5) A person or group of persons may not acquire a controlling interest in a manufacturer licensee until the petition required under subsection (g) has been approved. A person or group of persons seeking to acquire a controlling interest in a manufacturer licensee and the manufacturer licensee may enter into an agreement of sale that is contingent on Board approval of the petition.

**CHAPTER 1108. GAMING SERVICE PROVIDERS—TEMPORARY REGULATIONS**

- Sec.
- 1108.1. Gaming service providers.
- 1108.2. Interim authorization.
- 1108.3. Emergency gaming service provider.

**§ 1108.1. Gaming service providers.**

(a) A gaming service provider providing goods or services to a terminal operator licensee that directly relates to the operation and security of a video gaming terminal or redemption terminal shall apply to the Board to be registered as a gaming service provider.

(b) A gaming service provider seeking registration shall complete an original and one copy of a Gaming Service Provider Registration Form. The original copy and the fee toward the cost of the investigation of the applicant posted on the Board’s web site shall be submitted to the Bureau of Licensing by the terminal operator applicant or licensee for whom the gaming service provider will provide goods or services unless otherwise directed by the Bureau of Licensing.

(c) In addition to the materials required under subsection (b), an applicant for a gaming service provider registration shall do all of the following:

(1) Submit the nonrefundable application fee posted on the Board’s web site.

(2) Submit fingerprints of the following individuals in a manner prescribed by the Bureau:

(i) Each officer and director of the registered gaming service provider applicant. For purposes of this paragraph, “officer” means a president, a chief executive officer, a chief financial officer and a chief operating officer, and any person routinely performing corresponding functions with respect to an organization whether incorporated or unincorporated.

(ii) Each individual who has a direct or indirect ownership or beneficial interest of 10% or more in the registered gaming service provider applicant.

(iii) Each salesperson of a registered gaming service provider applicant who solicits business from, or has regular contact with, any representatives of a terminal operator applicant or licensee.

(d) A person who holds any direct or indirect ownership or beneficial interest in a registered gaming service provider or applicant for gaming service provider registration, or has the right to any profits or distributions directly or indirectly, from the registered gaming service provider or applicant for gaming service provider registration may be required to submit fingerprints if the Bureau determines that the submission of fingerprints of the person is necessary to protect the public interest or to enhance the integrity of gaming in this Commonwealth.

(e) Each of the individuals required to submit fingerprints under subsection (b)(2) must be found qualified by the Board.

(f) A gaming service provider registration will not be issued until all fees and costs have been paid.

**§ 1108.2. Interim authorization.**

(a) Notwithstanding § 1108.1 (relating to gaming service providers), the Bureau of Licensing may authorize an applicant for a gaming service provider registration to conduct business with a terminal operator applicant or licensee prior to the registration of the gaming service provider applicant if all of the following criteria are met:

(1) A completed Gaming Service Provider Registration application has been filed by the gaming service provider.

(2) The terminal operator applicant or licensee contracting or doing business with the gaming service provider certifies that it has performed due diligence on the gaming service provider and believes that the applicant meets the qualification to be a gaming service provider under 4 Pa.C.S. Part III (relating to video gaming) and § 1108.1.

(3) The applicant for gaming service provider registration agrees, in writing, that the grant of interim authorization to conduct business prior to Board approval of registration does not create a right to continue to conduct business if the Board determines that the applicant is not suitable or continued authorization is not in the public interest.

(b) If the Office of Enforcement Counsel issues a Notice of Recommendation for Denial to an applicant for registration, the Bureau of Licensing may rescind the permission granted to the applicant to conduct business with a terminal operator applicant or licensee under subsection (a). If the permission is rescinded, the applicant for registration shall cease conducting business with the terminal operator applicant or licensee by the date specified in the notice of the rescission by the Bureau of Licensing under subsection (c).

(c) The Bureau of Licensing will notify the applicant and the terminal operator applicant or licensee by registered and electronic mail that permission to conduct business with the terminal operator applicant or licensee under subsection (a) has been rescinded and that the terminal operator applicant or licensee shall cease conducting business with the applicant by the date specified in the notice.

**§ 1108.3. Emergency gaming service provider.**

(a) A terminal operator licensee may utilize a gaming service provider that is not registered when a threat to public health, welfare or safety exists, or circumstances outside the control of the terminal operator licensee require immediate action to mitigate damage or loss to the licensee’s video gaming terminals.

(b) When using a gaming service provider that is not registered to conduct business to respond to an emergency, the terminal operator licensee shall do all of the following:

(1) Immediately notify the Board’s Bureau of Casino Compliance and Bureau of Licensing of the emergency and the gaming service provider that was selected to provide emergency services.

(2) File a Gaming Service Provider Emergency Notification Form with the Bureau of Licensing within 72 hours after commencement of the gaming service provider’s services and a written explanation of the basis for the procurement of the emergency gaming service provider.

(c) If the terminal operator licensee continues to utilize the gaming service provider after the emergency circumstances have passed or if the Bureau of Licensing determines that the circumstances did not necessitate the use of an emergency gaming service provider, the gaming service provider shall comply with the requirements in this chapter.

**CHAPTER 1109. OCCUPATION PERMITS—  
TEMPORARY REGULATIONS**

Sec.

- 1109.1. Gaming employee occupation permits.  
1109.2. Nongaming employee registrations.

**§ 1109.1. Gaming employee occupation permits.**

(a) A gaming employee as defined in this subpart shall apply for an occupation permit in accordance with § 435a.3 (relating to occupation permit).

(b) In addition to the requirements in subsection (a), a gaming employee applying for an occupation permit shall submit all of the following:

(1) Verification of an offer of employment from, or employment by a terminal operator licensee, an establishment licensee, a manufacturer licensee, a supplier licensee or a video gaming service provider and the nature and scope of the proposed duties of the person.

(2) The previous employment history of the person.

(3) The details of an occupation permit or similar license granted or denied to the applicant in other jurisdictions.

(4) A current photograph of the person.

(5) The criminal history record of the person, as well as the person's consent for the Bureau to conduct a background investigation.

(6) Other information as determined by the Board.

(c) After reviewing the application and the results of the applicant's background investigation, the Board may issue a gaming employee occupation permit if the individual has proven that he is a person of good character, honesty and integrity, and is eligible and suitable to hold an occupation permit.

**§ 1109.2. Nongaming employee registrations.**

A person who is employed by an terminal operator licensee, establishment licensee, manufacturer, supplier or gaming service provider and whose duties do not involve monitoring a video gaming area or the conduct of video gaming may be required to apply for a nongaming employee registration in accordance with § 435a.5 (relating to nongaming employee registration) if the Board or the Bureau of Licensing determines that submitting an application and obtaining a registration is required to ensure the integrity of video gaming in this Commonwealth.

**CHAPTER 1110. APPLICATIONS GENERALLY—  
TEMPORARY REGULATIONS**

Sec.

- 1110.1. Preliminary application submission review.  
1110.2. Application processing.  
1110.3. Deficient and abandoned applications.  
1110.4. Application withdrawal.

**§ 1110.1. 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 4 Pa.C.S. Part III (relating to video gaming) 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.

**§ 1110.2. 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 part 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 license.

**§ 1110.3. 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 by the Bureau of Licensing under § 423a.4 (relating to deficient and abandoned applications).

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

**§ 1110.4. Application withdrawal.**

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

**CHAPTER 1111. LICENSE TERMS AND  
RENEWALS—TEMPORARY REGULATIONS**

Sec.

- 1111.1. Terms and renewals.

**§ 1111.1. Terms and renewals.**

(a) All licenses, permits and registrations issued under this part will be for a term of 5 years from the date of issuance.

(b) An application for renewal of an establishment license shall be submitted at least 3 months prior to the expiration of the license and must include an update of all information in the initial application and any prior renewal applications and any renewal fee.

(c) Except for renewal applications submitted under subsection (b), applications for renewal shall be submitted to the Board at least 180 days prior to the expiration of the license, permit or registration and must include an



update of all information in the initial application and any prior renewal applications and the payment of any renewal fee.

(d) A license, permit or registration for which an application for renewal has been timely filed will continue in effect until the Board acts upon the application for renewal.

**CHAPTER 1112. VIDEO GAMING TERMINAL, REDEMPTION TERMINAL AND ASSOCIATED EQUIPMENT TESTING AND CERTIFICATION—TEMPORARY REGULATIONS**

Sec.

1112.1. Definitions.

1112.2. Protocol requirements.

1112.3. Testing and approval generally.

1112.4. Submission for testing and approval.

1112.5. Video gaming terminal conversions.

1112.6. Revocations and additional conditions.

1112.7. Video gaming terminal minimum design standards.

1112.8. Gaming vouchers.

1112.9. Redemption terminals.

1112.10. Progressive video gaming terminals.

1112.11. Video gaming terminal monitoring systems.

1112.12. Remote system access.

1112.13. Video gaming terminals and associated equipment utilizing alterable storage media.

1112.14. Waivers.

1112.15. Disputes.

1112.16. Testing and software installation in the live video gaming area.

1112.17. RAM clear.

**§ 1112.1. Definitions.**

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

*Asset number*—A unique number assigned to a video gaming terminal by a terminal operator for the purpose of tracking the video gaming terminal, while owned by the terminal operator.

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

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

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

*Educational institution*—A facility that teaches and certifies students in video gaming terminal design, operation, repair or servicing.

*Finance department*—The department that is responsible for the management of the financial and accounting activities relating to video gaming terminals and table games being utilized in a licensed establishment.

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

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

*Gaming voucher system*—The collective hardware, software, communications technology and other ancillary equipment used to facilitate the issuance of gaming

vouchers and the redemption of gaming vouchers by video gaming terminals and automated gaming voucher redemption machines.

*Machine displayed payout percentage*—The selectable payout percentage that is set by the terminal operator during the initial configuration or a subsequent reconfiguration of a video gaming terminal and is displayed in the video gaming terminal’s service menu during normal operation.

*Manufacturer’s par sheet*—A document supplied by the manufacturer that shows payable information including theoretical payout percentage, winning combinations, awards and reel strips.

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

*Modification*—

(i) A change or alteration in a video gaming terminal or associated equipment that affects the manner or mode of play or operation of the video gaming terminal or associated equipment.

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

(iii) In the case of video gaming terminals, the term does not include:

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

(iv) In the case of a progressive system, the term includes a change in:

- (A) A system name or theme.
- (B) The odds to win the progressive payout.
- (C) The reset amount.
- (D) The rate at which a progressive award increases.
- (E) The wager necessary to win the progressive payout.

*Paytable*—A selectable part of a video gaming terminal program that contains video gaming terminal characteristics including the theoretical payout percentage, reel strips and awards.

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

*Progressive controller*—A program or computer system, other than an approved program that controls the operation of the video gaming terminal, which controls, adjusts and displays the amount of the progressive jackpot.

*Progressive payout*—A video gaming terminal payout that increases in a monetary amount based on the amounts wagered in a progressive system.

*Progressive video gaming terminal*—A video gaming terminal that offers a jackpot that may increase in value based upon the video gaming terminal wagers placed.

*Pseudo random number generator*—Software or hardware, or both, that ensures the randomness of video gaming terminal outcomes.

*RAM*—Random access memory.

*RAM clear*—A process initiated by a service technician that results in the zeroing out of any meter information, configuration information or data stored in the memory of a video gaming terminal.

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

*Reel strips*—Components of a video gaming terminal which display symbols.

*Related systems*—Systems which interface with video gaming terminals or slot monitoring systems.

*Remote system access*—Connectivity to terminal operator systems from outside the terminal operator's network.

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

*Server supported video gaming terminal system*—One or more video gaming terminals connected to a video gaming terminal server and an associated computer network.

*Theme*—A concept, subject matter and methodology of design of a video gaming terminal.

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

*Unredeemed gaming voucher*—A gaming voucher that has not been redeemed in a ticket redemption unit or a video gaming voucher that has been found and returned to an establishment licensee.

*Video gaming terminal bill validator*—A component made up of software and hardware that accepts and reads instruments such as bills or vouchers into gaming devices such as video gaming terminals and automated gaming voucher redemption machines.

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

*Video gaming terminal operations department*—The department of a terminal operator that is responsible for all operations in any truck stop establishment where video gaming terminals are kept.

*Video gaming terminal server*—A computer configured to receive, store, authenticate and download to video gaming terminals, Board-approved video gaming terminal game themes and other approved software.

*Video gaming terminal system operator*—The persons designated in a video gaming terminal system agreement as being responsible for the operation and administration of a wide area progressive system.

*Wager*—Placing at risk in a video gaming terminal a bill or video gaming voucher.

### § 1112.2. Protocol requirements.

In accordance with 4 Pa.C.S. §§ 3309 and 3518 (relating to central control computer system; and video gaming accounting controls and audits), manufacturer licensees, supplier licensees and terminal operators are required to ensure all video gaming terminals are enabled to communicate with the Department's central control computer for

the purpose of transmitting auditing program information and activating and disabling video gaming terminals.

### § 1112.3. Testing and approval generally.

(a) In accordance with 4 Pa.C.S. § 3701 (relating to testing and certification of terminals), video gaming terminals and redemption terminals and associated equipment operated in this Commonwealth shall be tested and approved in accordance with § 1112.4 (relating to submission for testing and approval).

(b) The general cost of establishment and operation of the Board's testing facility shall be paid by each manufacturer licensee quarterly basis based upon the time spent testing and certifying each manufacturer's number of products reviewed.

(c) The Board will require payment of all costs for the testing and approval of video gaming terminals and redemption terminals and associated equipment submitted by manufacturers or gaming related gaming service providers or installed at an establishment licensee's facility based on the actual direct costs incurred by the Board.

(d) The Board will require a manufacturer licensee seeking approval of a video gaming terminal and redemption terminal and associated equipment to pay all costs of transportation, inspection and testing.

### § 1112.4. Submission for testing and approval.

(a) A video gaming terminal, redemption terminal and associated equipment identified in subsection (c) (collectively referred to as "products" or "equipment, device or software"), or a modification thereto, may not be offered for sale, lease or distribution for ultimate use by a manufacturer or supplier licensee in this Commonwealth unless a prototype identical in all mechanical, electrical, electronic and other respects has been tested by the Bureau of Gaming Laboratory Operations and approved by the Board's Executive Director.

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

(c) For the purposes of this section, video gaming terminals, redemption terminals and associated equipment that shall be submitted for testing and approval include all of the following:

(1) Video gaming terminals, including bill validators and printers.

(2) Video gaming monitoring systems, to the extent the systems interface with video gaming terminals and related systems.

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

(4) Gaming voucher systems.

(5) Machines performing gaming voucher payout transactions.

(6) Other related systems.

(d) Video gaming terminal prototypes and modifications thereto, which are subject to testing and approval under this section, will be evaluated by the Bureau of Gaming Laboratory Operations for overall operational integrity and compliance with 4 Pa.C.S. Part III (relating to video gaming), this subpart and technical standards adopted by the Board as published in the *Pennsylvania Bulletin* and posted on the Board's web site. In addition, with regard to any video gaming terminal or modification thereto, the Bureau of Gaming Laboratory Operations will test for compatibility and compliance with the central control computer and protocol specifications approved by the Department including the ability to communicate with the central control computer for the purpose of transmitting auditing program information, real time information retrieval and activation, and disabling of slot machines and fully automated electronic gaming tables.

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

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

(g) When an applicant for, or holder of, a manufacturer license seeks Board approval of a video gaming terminal prototype as described in subsection (c)(1), associated equipment prototype or any modification thereto, the manufacturer shall submit to the Bureau of Gaming Laboratory Operations all of the following:

(1) A prototype of the equipment, device or software accompanied by a written request for testing and approval. The manufacturer shall transport the equipment, device or software at its own expense and deliver it to the Bureau of Gaming Laboratory Operations in accordance with provided instructions.

(2) Certifications required under subsection (f) providing assurances from the manufacturer that the product was properly and completely tested and emulated by the manufacturer prior to its submission to the Bureau of Gaming Laboratory Operations and that the product, device or software complies with 4 Pa.C.S. Part III (relating to video gaming), this subpart and technical standards adopted by the Board as published in the *Pennsylvania Bulletin* and posted on the Board's web site, including applicable requirements related to the central control computer.

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

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

(5) Any hardware, software and other equipment, inclusive of technical support and maintenance applicable thereto, required by the Bureau of Gaming Laboratory

Operations to conduct the testing and approval process contemplated by 4 Pa.C.S. Part III (relating to video gaming), this subpart and technical standards adopted by the Board as published in the *Pennsylvania Bulletin* and posted on the Board's web site. The testing equipment and services required by this paragraph shall be provided at no cost to the Board.

(6) In the case of a video gaming terminal prototype, all of the following additional information:

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

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

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

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

(v) Hardware block diagrams of the major subsystems.

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

(vii) A wiring harness connection diagram.

(viii) A technical and an operator manual.

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

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

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

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

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

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

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



(xvi) Program storage media including EPROMs, EEPROMs and any type of alterable media for video gaming terminals.

(xvii) Technical specifications for any microprocessor or microcontroller.

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

(xix) Additional documentation requested by the Bureau of Gaming Laboratory Operations relating to the video gaming terminals.

(7) In the case of a modification to a video gaming terminal prototype, including a change in theme, all of the following additional information:

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

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

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

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

(v) Additional documentation requested by the Bureau of Gaming Laboratory Operations relating to the modification of the video gaming terminals.

(8) In the case of a video gaming terminals monitoring system or automated gaming voucher machine, or any other equipment or system required to be tested and approved under subsection (c), all of the following:

(i) A technical and an operator manual.

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

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

(iv) A description of the data flow, in narrative and in schematic form, including specifics with regard to data cabling.

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

(vi) System software and hardware installation procedures.

(vii) A list of available system reports.

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

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

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

(xi) All source code.

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

(xiii) Any specialized hardware, software or other equipment, inclusive of technical support and maintenance applicable thereto, required by the Bureau of Gaming Laboratory Operations to conduct the testing and approval process contemplated by 4 Pa.C.S. Part III (relating to video gaming), this subpart and technical standards adopted by the Board as published in the *Pennsylvania Bulletin* and posted on the Board's web site. The testing equipment and services required by this paragraph shall be provided at no cost to the Board.

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

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

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

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

(iii) Additional documentation requested by the Bureau of Gaming Laboratory Operations relating to the modification.

(10) In the case of gaming related services, as described in § 613a.1 (relating to definitions; general requirements), which are submitted by an applicant for or holder of a manufacturer license or gaming related gaming service provider certification, all of the following:

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

(ii) A detailed description of the gaming related service including the rules of play and wagering that would be used for the new table game or feature.

(iii) The true odds, the payout odds and the house advantage for each wager.

- (iv) A sketch or picture of the game layout, if any.
- (v) Sketches or pictures of the equipment used to play the game.

(h) At the conclusion of testing of a prototype or modification by the Bureau of Gaming Laboratory Operations, but prior to a decision to approve a prototype or modification, the Board's Executive Director may require a trial period of scope and duration as he deems appropriate to assess the operation of the prototype or modification in a live gaming environment. The conduct of the trial period is subject to compliance by the licensed manufacturer, applicable licensed suppliers, gaming related gaming service provider and the terminal operator with specific terms and conditions as may be required by the Board's Executive Director, which may include development and implementation of product specific accounting and internal controls, periodic data reporting to the Board's Executive Director and compliance with technical standards on trial periods or the prototype or modification adopted by the Board as published in the *Pennsylvania Bulletin* and posted on the Board's web site. The Board's Executive Director may authorize the receipt of compensation by a licensed manufacturer, licensed supplier or gaming related gaming service provider during the trial period. The Board's Executive Director may terminate the trial period if he determines that the licensed manufacturer, licensed suppliers, gaming related gaming service provider or terminal operator conducting the trial period has not complied with the terms and conditions required by the Board's Executive Director or that the product is not performing as expected.

(i) At the conclusion of testing of a prototype or modification, the Bureau of Gaming Laboratory Operations will report to the Board's Executive Director the results of its testing. Upon receipt of the Bureau of Gaming Laboratory Operations' report, the Board's Executive Director will:

- (1) Approve, approve with conditions or reject the submitted prototype or modification.
- (2) Require additional testing or a trial period under subsection (h).
- (j) The Board's Executive Director approval of a prototype or modification does not constitute a guarantee of the prototype's or modification's safety.

(k) A terminal operator is prohibited from installing in an establishment licensee's facility a video gaming terminal or associated equipment, or modification thereto, that is required to be tested unless the equipment, device or software has been approved by the Board's Executive Director. A terminal operator may not modify, alter or tamper with an approved video gaming terminal or associated equipment. A video gaming terminal or associated equipment installed in an establishment licensee's facility in contravention of this requirement will be subject to seizure by the Board.

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

(m) A terminal operator shall immediately notify the Bureau of Gaming Laboratory Operations of any known or suspected defect or malfunction in any video gaming terminal or associated equipment installed in its licensed facility. The terminal operator shall comply with instructions issued by the Bureau of Gaming Laboratory Operations with regard to the continued operation of the video gaming terminal or associated equipment.

(n) Concurrent with the initial receipt of video gaming terminals, a terminal operator shall file a video gaming terminal master list.

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

**§ 1112.5. Video gaming terminal conversions.**

A slot machine licensee shall do all of the following:

- (1) Maintain complete and accurate records of all conversions.
- (2) Give prior notice of a video gaming terminal conversion to the Bureau of Casino Compliance in writing.
- (3) Notify the Department in accordance with § 463a.4 (relating to notice and connection to the central control computer system).

**§ 1112.6. Revocations and additional conditions.**

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

- (1) The equipment, device or software is not in compliance with 4 Pa.C.S. Part III (relating to video gaming), this subpart or technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's web site.
- (2) The video gaming terminal, or modification thereto, is not compatible with, or compliant with the central control computer and protocol specifications approved by the Department or is unable to communicate with the central control computer for the purpose of transmitting auditing program information, real time information retrieval, and activation and disabling of video gaming terminal.

**§ 1112.7. Video gaming terminal minimum design standards.**

(a) A video gaming terminal may not be set to pay out less than the theoretical payout percentage, which may not be less than 85%, calculated using the lowest possible wager that could be played for any single play, or equal or exceed 100%, calculated using the highest eligible wager available. The theoretical payout percentage for the total value of video gaming terminal wagers will be calculated using the following:

- (1) The defined set of all symbols that will be displayed using spinning reels or video displays, or both.
- (2) The finite set of all possible combinations which shall be known as the cycle of the game. All possible combinations in a video gaming terminal cycle must be independent of each other and of all possible combinations from cycles in other video gaming terminal.
- (3) The value of each winning combination that corresponds with the set from paragraph (2) which, whether by

reason of skill or application of the element of chance, or both, may deliver or entitle the person or persons playing the video gaming terminal to wins.

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

(b) The calculation of the theoretical payout percentage may not include the amount of any progressive wins in excess of the initial or reset amount.

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

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

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

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

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

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

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

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

(5) Once a random selection process has occurred, the video gaming terminal must do all of the following:

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

(ii) Not make a secondary decision which affects the result shown to the person playing the video gaming terminal.

(e) A video gaming terminal is prohibited from automatically altering any function of the video gaming terminal based on internal computation of the hold percentage.

(f) The available winning combinations and applicable rules of play for a video gaming terminal must be available at all times the video gaming terminal is idle to the patron playing the video gaming terminal. The award schedule of available winning combinations may not include possible aggregate awards achievable from free plays. A video gaming terminal that includes a strategy choice must provide mathematically sufficient information

for a patron to use optimal skill. Information regarding a strategy choice need not be made available for any strategy decisions whenever the patron is not required, in addition to the initial wager, to make an additional wager and, when as a result of playing a strategy choice, the patron cannot lose any credits earned thus far during that game play.

(g) Video gaming terminals approved for use in an establishment licensee's facility must be equipped with all of the following meters that comply with the technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's web site:

(1) Coin in. A meter that accumulates the total value of all wagers, whether the wager results from the insertion of currency, gaming vouchers, credits won or any other means. This meter must, for multigame and multidenomination/multigame video gaming terminal, monitor the information necessary, on a per payable basis, to calculate a weighted average actual payout percentage.

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

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

(4) Bill in. A meter that accumulates the total value of currency accepted. The video gaming terminal must also have a specific meter for each denomination of currency accepted that records the number of bills accepted for each denomination.

(5) Voucher in—cashable/value. A meter that accumulates the total value of cashable gaming vouchers accepted by the video gaming terminal.

(6) Voucher in—cashable/count. A meter that accumulates the total number of cashable gaming vouchers accepted by a video gaming terminal.

(7) Voucher out—cashable/value. A meter that accumulates the total value of cashable gaming vouchers issued by the video gaming terminal.

(8) Voucher out—cashable/count. A meter that records the total number of cashable gaming vouchers issued by a video gaming terminal.

(9) Video gaming terminal paid progressive payout. A meter that accumulates the total value of credits paid as a result of progressive awards paid directly by the video gaming terminal. This meter may not record awards paid as a result of an external bonusing system.

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

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



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

(i) The meters required under subsection (g) must continuously and automatically increment in units equal to the denomination of the video gaming terminal or, in the case of a video gaming terminal configured for multidomination play, must display the required information in dollars and cents.

(j) A video gaming terminal approved for use in an establishment licensee's must be equipped with all of the following noncumulative meters:

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

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

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

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

(4) Credit meter. A meter, visible from the front exterior of the video gaming terminal and specifically labeled as a credit meter, which advises the patron as to the number of credits or monetary value available for wagering on the video gaming terminal.

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

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

(l) A video gaming terminal must be equipped with a device, mechanism or method for retaining the total value of all meters required under subsection (g) for 72 hours subsequent to a power loss.

(m) The required meters on a video gaming terminal must be accessible and legible without access to the interior of the video gaming terminal.

(n) A video gaming terminal must be equipped with a tower light capable of effectively communicating the status of the video gaming terminal in accordance with technical standards on tower lights and error conditions.

(o) A video gaming terminal must be equipped with a device, mechanism or method for detecting, displaying and communicating to a video gaming terminal monitoring system error conditions. The error conditions detected, displayed and communicated by a video gaming terminal, and the method to be utilized to clear the

message with regard to the error condition, must be in accordance with technical standards on tower lights and error conditions.

(p) A video gaming terminal must, in accordance with 4 Pa.C.S. § 3309 (relating to central control computer system), comply with the comprehensive protocol specifications necessary to enable the video gaming terminal to communicate with the Department's central control computer as that protocol is amended or supplemented, for the purpose of transmitting auditing program information, real time information retrieval and slot machine activation and disabling.

(q) Printers incorporated into a video gaming terminal must be:

(1) Designed to allow the video gaming terminal to detect and report a low paper level, paper out, presentation error, printer failure and paper jams.

(2) Mounted inside a lockable compartment within the video gaming terminal.

(r) Seating made available by a terminal operator licensee for use during video gaming play may be fixed and stationary or nonfixed. When fixed and stationary seating is used, it shall be installed in a manner that effectively precludes its ready removal by a patron but permits controlled removal, for example for American With Disabilities Act of 1990 (42 U.S.C.A. §§ 12101—12213) purposes. When nonfixed seating is used, the terminal operator shall maintain a minimum aisle width of 48 inches, measured from the seat back to a wall, divide or another seat back when the nonfixed seating is vacant and is touching or is as close as possible to the video gaming terminal at which the nonfixed seating is being used.

(s) Unless a terminal operator's video gaming terminal monitoring system is configured to automatically record all of the information required by this subsection, the terminal operator is required to physically house in each video gaming terminal all of the following entry authorization logs:

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

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

(t) A video gaming terminal must be equipped with a lock controlling access to the card cage door securing the microprocessor, the key to which must be different from any other key securing access to the video gaming terminal's components including its belly door or main door, bill validator or video gaming terminal cash storage

box. Access to the key securing the microprocessor shall be limited to an employee of a terminal operator who possesses a valid gaming occupation permit, unless another person is specifically authorized to possess a key by the Board's Executive Director.

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

(v) A video gaming terminal that does not require a full-time attendant for operation must be equipped with a service button designed to allow the player of a video gaming terminal to request assistance or report a terminal malfunction. The service button must:

(1) Be visible to and within easy reach of the player of the video gaming terminal.

(2) Communicate directly or through the video gaming terminal to the video gaming terminal's tower light which will provide a signal that is in compliance with the technical standards on video gaming terminal tower lights.

(w) A video gaming terminal on the gaming floor must have a label on the top of the video gaming terminal and on the front of the video gaming terminal near the bill validator that displays the asset number and the gaming floor plan location number of the video gaming terminal. The labels must have white lettering on a black background or other color combination approved by the Bureau of Gaming Operations, may not be easily removed and must be easily visible to surveillance cameras. The label on the top of the slot machine must be at least 1.5 inches by 5.5 inches and the label on the front of the video gaming terminal must be at least 1 inch by 2.5 inches or other sizes approved by the Bureau of Gaming Operations.

#### § 1112.8. Gaming vouchers.

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

(b) The design specifications for a gaming voucher, the voucher verification methodologies utilized and any limitation on the value of a gaming voucher must be in compliance with technical standards on gaming vouchers.

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

(d) Prior to issuing a gaming voucher, a terminal operator shall establish a system of internal controls for the issuance and redemption of gaming vouchers. The internal controls shall be submitted and approved by the Board and address all of the following:

(1) Procedures for assigning an asset number and identifying other redemption locations in the system, and enabling and disabling voucher capabilities for video gaming terminal and redemption locations.

(2) Procedures for issuance, modification and termination of a unique system account for each user.

(3) Procedures used to configure and maintain user passwords.

(4) Procedures for restricting special rights and privileges, such as administrator and override capabilities.

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

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

(7) Procedures for the backup and timely recovery of critical data in accordance with technical standards.

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

(9) Procedures for the retention, tracking and payment of the value of unredeemed gaming vouchers to the State Treasurer as required under Article XIII.1 of The Fiscal Code (72 P.S. §§ 1301.1—1301.29), regarding the disposition of abandoned and unclaimed property.

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

(1) The terminal operator chooses to pay a patron the value of a video gaming voucher when the gaming voucher system is inoperable.

(2) The terminal operator chooses to pay a patron the value of a video gaming voucher when the redemption terminal is inoperable.

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

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

(2) A report of all gaming vouchers that have been redeemed and cancelled by redemption location, including the asset number of the video gaming terminal, the serial number, the value, date and time of redemption for each voucher, and the total value of all vouchers redeemed.

(3) The unredeemed liability for gaming vouchers.

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

(5) Exception reports and audit logs.

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

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

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

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

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

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

(j) Except as provided in subsection (n) with regard to employee redemption of gaming vouchers, a gaming voucher shall be redeemed by a patron for a specific value of cash through a redemption terminal on the premises of the establishment licensee or at a video gaming terminal. Notwithstanding the forgoing, a terminal operator may not permit a gaming voucher that is presented for redemption to be redeemed if it knows, or has reason to know, that the gaming voucher:

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

(2) Was previously redeemed.

(3) Was printed as a test gaming voucher.

(k) Gaming vouchers redeemed at automated gaming voucher redemption machines shall be retained by the terminal operator representatives with no incompatible functions shall perform, at a minimum, all of the following:

(1) On a weekly basis, or other period approved by the Board:

(i) Compare gaming voucher system report data to any redemption terminal report data available to ensure proper electronic cancellation of the gaming voucher.

(ii) Calculate the unredeemed liability for gaming vouchers, either manually or by means of the gaming voucher system.

(2) On a weekly basis, compare appropriate video gaming terminal meter readings to the number and value of issued and redeemed gaming vouchers per the gaming voucher system. Meter readings obtained through a video gaming terminal monitoring system may be utilized to complete this comparison.

(l) A terminal operator shall provide written notice to the Bureau of Casino Compliance of any adjustment to the value of any gaming voucher. The notice shall be made prior to, or concurrent with, the adjustment.

(m) A gaming voucher system must be configured to alert a terminal operator to any malfunction. Following a malfunction of a system, a terminal operator shall notify the Bureau of Casino Compliance within 24 hours of the malfunction and may not utilize the system until the malfunction has been successfully eliminated. Notwithstanding the foregoing, the Bureau of Casino Compliance may permit a terminal operator to utilize the system prior to its being successfully restored, for a period not to exceed 72 hours, provided all of the following apply:

(1) The malfunction is limited to a single storage media device, such as a hard disk drive.

(2) In addition to the malfunctioning storage media device, the system contains a backup storage media

device not utilized in the normal operation of the system. The backup device must immediately and automatically replace the malfunctioning device to permit a complete and prompt recovery of all information in the event of an additional malfunction.

(3) Continued use of the malfunctioning system would not inhibit the ability to perform a complete and prompt recovery of all information, and would not otherwise harm or affect the normal operation of the system.

(n) Other than a modification to a gaming voucher system required on an emergency basis to prevent cheating or malfunction and approved by the Board, a modification to a gaming voucher system may not be installed without the gaming voucher system having undergone the testing and approval process required under § 1112.4 (relating to submission for testing and approval).

**§ 1112.9. Redemption terminals.**

(a) A terminal operator shall utilize an automated redemption terminal that has been tested and approved by the Board under § 1112.4 (relating to submission for testing and approval).

(b) Redemption terminals must be located in the video gaming area of an establishment licensee and subject to surveillance coverage as approved by the Board. Each redemption terminal must have a label on the top of the redemption terminal and on the front of the redemption terminal that displays the asset number of the redemption terminal. The labels must have white lettering on a black background or other color combination approved by the Bureau of Gaming Operations and may not be easily removed. The label on the top of the redemption terminal must be at least 1.5 inches by 5.5 inches and the label on the front of the redemption terminal must be at least 1 inch by 2.5 inches or other sizes approved by the Bureau of Gaming Operations.

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

(d) The methods utilized to comply with the requirements in subsection (c) shall be submitted to and approved by the Board under § 1112.4 in the context of the testing of a gaming voucher system.

(e) A redemption terminal may function as a bill breaker changing bills of one denomination into bills of a smaller denomination.

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

(g) A redemption terminal must have, at a minimum, all of the following:

(1) One lock securing the compartment housing the storage box and one lock securing the storage box within the compartment, the keys to which must be different from each other.

(2) One lock securing the compartment housing the currency cassettes.



(3) One lock securing the contents of the storage box, the key to which must be different from the keys referenced in paragraphs (1) and (2).

(h) A redemption terminal shall be designed to resist forced illegal entry.

(i) A redemption terminal's currency cassettes shall be designed to preclude access to its interior.

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

(k) A gaming voucher accepted by a redemption terminal shall be cancelled immediately upon exchange in a manner that effectively prevents its subsequent redemption by the same or another redemption terminal or its acceptance in a video gaming terminal bill validator. The methods utilized to comply with this requirement must be in accordance with this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's web site.

(l) A redemption terminal shall be designed to be impervious to outside influences, interference from electro-magnetic, electro-static and radio frequencies, and influence from ancillary equipment.

(m) A redemption terminal must include a means to protect against transaction failure and data loss due to power loss.

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

(o) A redemption terminal must detect, display and record electronically all of the following error conditions that disable the redemption terminal and prohibit new transactions:

(1) Failure to make payment, if the gaming voucher is not returned and a receipt is not issued.

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

(3) Bill validator failure.

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

(p) A redemption terminal shall be designed to evaluate whether sufficient funds are available before stacking the voucher and completing the transaction.

(q) A redemption terminal must be capable of maintaining synchronization between its real-time clock and that of the gaming voucher system.

(r) A redemption terminal must be equipped with electronic digital storage meters. The information must be readily available through system reports. When a value is maintained, the value must be in dollars and cents. A redemption terminal must accumulate all of the following information:

(1) Physical coin out. The total value, by denomination, of coins paid by the redemption terminal.

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

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

(4) Bill in. The value of currency accepted by the redemption terminal. A redemption terminal must also have specific meters for each denomination of currency accepted that records the number of bills accepted.

(5) Bill out. The total value of currency dispensed. A redemption terminal must also provide for specific meters for each denomination of currency dispensed that record the number of bills dispensed.

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

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

(t) A redemption terminal or ancillary systems, applications and equipment associated with the reconciliation thereof, must be capable of producing all of the following reports upon request:

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

(2) Reconciliation report. The report must include all of the following:

(i) Report date and time.

(ii) Unique asset identification number of the redemption terminal.

(iii) Total cash balance of the currency cassettes.

(iv) Total count of currency accepted by denomination.

(v) Total dollar amount of vouchers accepted.

(vi) Total count of gaming vouchers accepted.

(3) Gaming voucher and currency storage box report. The report must be generated, at a minimum, whenever a gaming voucher, and currency storage box is removed from a redemption terminal. The report must include all of the following:

(i) Report date and time.

(ii) Unique asset identification number of the machine.

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

(iv) Total value of currency accepted.

(v) Total number of bills accepted by denomination.

(vi) Total count of gaming vouchers accepted.

(4) Transaction report. The report must include all critical patron transaction history including the date, time, amount and disposition of each complete and incomplete transaction. If a redemption terminal is capable of redeeming multiple vouchers in a single transaction, the transaction history must include a breakdown of the transaction with regard to the individual gaming vouchers accepted.

**§ 1112.10. Progressive video gaming terminals.**

(a) A progressive video gaming terminal may stand alone or be linked with other progressive video gaming terminals in the same establishment licensee's facility.

(b) Each video gaming terminal that offers a progressive jackpot must have all of the following:

(1) A progressive meter, visible from the front of the video gaming terminal, which may increase in value based upon wagers, that advises the player of the amount which can be won if the player receives the combination on the video gaming terminal that awards the progressive jackpot.

(2) A video gaming terminal paid progressive payout meter.

(3) A cumulative progressive payout meter that continuously and automatically records the total value of progressive jackpots paid directly by the video gaming terminal.

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

(5) A key locking the compartment housing the progressive meter or meters or other means by which to preclude any unauthorized alterations to the progressive meters. The key or alternative security method must be different than the key or reset mechanism in paragraph (4).

(6) If the progressive controller is not secured in a video gaming terminal, the progressive controller:

(i) Must be maintained in a secure area approved by the Bureau of Gaming Laboratory Operations.

(ii) Must be dual key controlled with one key controlled by the terminal operator's operations department and the other key controlled by a different designated department with no incompatible functions, as specified in the licensee's internal controls.

(iii) May not be accessed until the Bureau of Gaming Laboratory Operations is electronically notified.

(c) In addition to the requirements in subsection (b), a video gaming terminal that is connected to a common progressive meter for the purpose of offering the same progressive jackpot on two or more video gaming terminals must:

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

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

(d) Notwithstanding the provisions of subsection (c), two or more linked video gaming terminals offering the same progressive jackpot may be of different denomina-

tions or have different wagers, or both, required to win the progressive jackpot, provided that all of the following apply:

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

(2) Notice indicating the proportional probability of hitting the progressive jackpot on the linked progressive system is conspicuously displayed on each linked video gaming terminal.

(e) A terminal operator seeking to utilize a linked video gaming terminal shall submit for approval in accordance with § 1112.4 (relating to submission for testing and approval) the location and manner of installing any progressive meter display mechanism.

(f) A video gaming terminal that offers a progressive jackpot may not be placed in the video gaming area until the terminal operator has submitted all of the following to the Bureau of Gaming Laboratory Operations for review and approval in accordance with § 1112.4:

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

(2) The proposed system for controlling the keys and applicable logical access controls to the video gaming terminal.

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

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

(5) The calculated probability of winning each progressive jackpot. The probability may not exceed 50 million to 1.

(g) A video gaming terminal that offers either a new progressive jackpot or undergoes a modification or RAM clear of an existing progressive jackpot may not be made available for play by the public until the video gaming terminal has been tested and certified by the Bureau of Gaming Laboratory Operations. For purposes of this subsection, a modification includes any change in the software, hardware, including controllers, and any associated equipment that relates to progressive functionality.

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

(1) The amount indicated has been actually paid to a winning patron and the progressive jackpot amount has been recorded in accordance with a system of internal controls.

(2) With written approval, the progressive jackpot has been transferred to another progressive video gaming terminal in accordance with subsection (k)(4).

(3) The change is necessitated by a video gaming terminal or meter malfunction. An explanation for the change shall be entered on the progressive video gaming terminal summary required under this subpart and the Bureau of Gaming Laboratory Operations shall be notified of the resetting in writing.

(i) Once an amount appears on a progressive meter, the probability of hitting the combination that will award the progressive jackpot may not be decreased unless the progressive jackpot has been won by a patron, has been to another progressive video gaming terminal or has been removed in accordance with subsection (k).

(j) When a video gaming terminal has a progressive meter with digital limitations on the meter, the terminal operator shall set a limit on the progressive jackpot not to exceed the display capability of the progressive meter.

(k) A terminal operator may limit, transfer or terminate a progressive jackpot offered in a video gaming area only under the following circumstances:

(1) A terminal operator shall establish a payout limit for a progressive jackpot of \$1,000.

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

(3) A terminal operator may immediately and permanently remove one or more linked video gaming terminal from a gaming floor, provided that the terminal operator retains at least one video gaming terminal offering the same progressive jackpot in its video gaming area.

(4) A terminal operator may transfer a progressive jackpot amount on a standalone video gaming terminal or the common progressive jackpot on an entire link of video gaming terminal slot machines with a common progressive meter from a video gaming area provided the terminal operator receives written approval from the Bureau of Gaming Laboratory Operations prior to the transfer and the accrued amount minus the seed amount of the progressive jackpot is:

(i) Transferred in its entirety.

(ii) Transferred to one of the following:

(A) The progressive meter for a video gaming terminal with the same or similar probability of winning the progressive jackpot, the same or lower wager requirement to be eligible to win the progressive jackpot and the same type of progressive jackpot.

(B) The progressive meters of two separate video gaming terminals provided that each video gaming terminal to which the jackpot is transferred individually satisfies the requirements in clause (A).

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

(5) If a transfer cannot be made in accordance with paragraph (4) or with good cause shown, a terminal operator may remove progressive functionality, change the game theme or permanently remove a standalone progressive video gaming terminal, or an entire link of video gaming terminal with a common progressive jackpot from a video gaming area, provided all of the following:

(i) Notice of intent to remove the progressive video gaming terminals is conspicuously displayed on the front of each video gaming terminal for at least 30 days.

(ii) Prior to posting the notice of intent required under subparagraph (i), the terminal operator licensee receives written approval from the Bureau of Gaming Laboratory Operations to remove the progressive video gaming terminal.

(l) Progressive video gaming terminal removed from the video gaming area in accordance with subsection (k)(5) may not be returned to the gaming floor for 90 days.

(m) The amount indicated on the progressive meter or meters and coin in meter on each video gaming terminal

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

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

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

(n) Except as otherwise authorized by this section, a video gaming terminal offering a progressive jackpot that is temporarily removed from the video gaming area shall be returned to active play or replaced in the video gaming area within 5 gaming days. The amount on the progressive meter or meters on the returned or replacement video gaming terminal may not be less than the amount on the progressive meter or meters at the time of removal.

(o) When a video gaming terminal is located adjacent to a video gaming terminal offering a progressive jackpot, the terminal operator shall conspicuously display a notice advising patrons that the video gaming terminal is not participating in the progressive jackpot of the adjacent video gaming terminal.

#### **§ 1112.11. Video gaming terminal monitoring systems.**

(a) A terminal operator may utilize a video gaming terminal monitoring system which has an interface between it and video gaming terminals and related systems that has been tested and approved by the Board under § 1112.4 (relating to submission for testing and approval).

(b) A video gaming terminal monitoring system must comply with 4 Pa.C.S. (relating to amusements), this subpart and technical standards on video gaming terminal monitoring systems adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's web site.

#### **§ 1112.12. Remote system access.**

(a) In emergency situations or as an element of technical support, an employee of a licensed manufacturer may perform analysis of, or render technical support with regard to, a terminal operator's video gaming terminal monitoring system, gaming voucher system or other Board-approved system from a remote location.

(b) Remote system access shall be performed in accordance with technical standards on remote system access under § 461b.5 (relating to remote computer access).

(c) Prior to granting remote system access, a terminal operator shall establish a system of internal controls applicable to remote system access. The internal controls shall be submitted to and approved by the Board under § 465a.2 (relating to internal control systems and audit



protocols). The internal control procedures submitted by the terminal operator shall be designed to protect the physical integrity of the systems in subsection (a) and the related data and be capable of limiting the remote access to the system or systems requiring technical support.

**§ 1112.13. Video gaming terminals and associated equipment utilizing alterable storage media.**

(a) *Definition.* The following term, when used in this section, has the following meaning, unless the context clearly indicates otherwise:

*Alterable storage media—*

(i) Memory or other storage medium, such as an EEPROM, flash, optical or magnetic storage device, that is contained in a video gaming terminal or associated equipment subject to approval under § 461a.4 (relating to submission for testing and approval), that allows the modification of programs or data on the storage media during the normal operation of the video gaming terminal or associated equipment.

(ii) The term does not include the following:

(A) Memory or other storage medium typically considered to be alterable but through either software or hardware means approved by the Board have been rendered unalterable and remain verifiable by the central control computer system.

(B) Associated equipment using alterable storage media that the Board determines are incapable of influencing the integrity or outcome of game play.

(b) *Use of alterable storage media.* Any use of alterable storage media in a video gaming terminal or associated equipment must be in compliance with 4 Pa.C.S. Part III (relating to video gaming), this subpart and technical standards on alterable storage media adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's web site.

**§ 1112.14. Waivers.**

(a) The Board may, on its own initiative, waive one or more of the requirements in this chapter or the technical standards applicable to video gaming terminal and associated equipment adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's web site upon a determination that the nonconforming video gaming terminal or associated equipment or modification as configured meets the operational integrity requirements in 4 Pa.C.S. Part III (relating to video gaming), this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's web site.

(b) A manufacturer may submit a written request to the Board for a waiver for one or more of the requirements in this chapter or the technical standards applicable to video gaming terminal and associated equipment adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's web site. The request must:

(1) Be submitted as a petition under § 493a.4 (relating to petitions generally).

(2) Include supporting documentation demonstrating how the video gaming terminal or associated equipment for which the waiver has been requested will still meet the operational integrity requirements in 4 Pa.C.S. Part III (relating to video gaming), this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's web site.

(3) Be approved by the Board.

**§ 1112.15. Disputes.**

(a) If a dispute arises with a patron, the terminal operator shall attempt to resolve the dispute. If the dispute cannot be resolved, the terminal operator shall notify the Bureau of Casino Compliance who will attempt to resolve the dispute. If the dispute is not resolved, the Bureau of Casino Compliance will provide the patron with a Board Patron Dispute/Complaint Form and Instructions for Submitting a Patron Dispute/Complaint and assist the patron in completing the Board Patron Dispute/Complaint Form.

(b) When a patron files a complaint, the Bureau will conduct an investigation of the complaint.

**§ 1112.16. Testing and software installation in the live video gaming area.**

(a) Prior to the testing of video gaming terminals, associated equipment and displays in a live video gaming area during a terminal operator's normal hours of operation, the terminal operator shall notify the Bureau of Gaming Laboratory Operations and the Bureau of Casino Compliance in writing at least 72 hours prior to the test date and receive the required approvals from the Bureau of Gaming Laboratory Operations prior to beginning testing. The notification must include all of the following:

(1) A detailed narrative description of the type of testing to be conducted, including the reason for the testing, a list of individuals conducting the testing and the terminal operator's procedures for conducting the testing.

(2) The date, time and approximate duration of the testing.

(3) The model, video gaming terminals location number and asset number of the video gaming terminals to be tested.

(4) The location within the licensed facility where the testing will occur.

(b) A terminal operator shall notify the Bureau of Gaming Laboratory Operations and the Bureau of Casino Compliance at least 72 hours prior to the installation of any new software or the installation of any change in previously approved software and receive the required approvals prior to the installation of any of the following:

(1) Automated gaming voucher redemption terminals.

(2) Video gaming terminals monitoring systems.

(3) Additional automated bill breaker machines, automated gaming voucher redemption terminals and automated teller machines in the video gaming area.

(4) Gaming voucher systems.

(c) The notification required under subsection (b) must include all of the following:

(1) A description of the reasons for the new installation or change in previously approved software.

(2) A list of the current computer components, software identifications or versions that are to be modified or replaced.

(3) A list of the proposed computer components, software identifications or versions that will modify or replace the existing components or software.

(4) The method to be used to complete the proposed installation.

(5) The date and time that the proposed modification will be installed and the estimated time for completion.

(6) The name, title and employer of the persons performing the installation.

(7) The plan to handle disruptions, if any, to the video gaming area.

(8) The approximate length of time the video gaming area or systems will be disrupted.

(9) Plans for system backup prior to any proposed installation.

**§ 1112.17. RAM clear.**

(a) When a terminal operator becomes aware of a nonresponsive video gaming terminals, and communication between the video gaming terminals and the central control computer cannot be re-established, the terminal operator shall immediately notify the Department's operator of the central control computer and the Bureau of Casino Compliance. The terminal operator may not do a RAM clear on the affected video gaming terminals or associated equipment until the Bureau of Casino Compliance has recorded the information on the financial meters.

(b) For planned RAM clears, the terminal operator shall provide notice to the Department's operator of the central control computer and the Bureau of Casino Compliance at least 48 hours prior to the scheduled RAM clear. A second notice shall be provided to the Department's operator of the central control computer and the Bureau of Casino Compliance immediately prior to actually conducting the RAM clear.

**CHAPTER 1113. POSSESSION OF VIDEO GAMING TERMINALS—TEMPORARY REGULATIONS**

Sec.

- 1113.1. Possession of video gaming terminals generally.
- 1113.2. Transportation of video gaming terminals into, within and out of this Commonwealth.
- 1113.3. Video gaming terminals location in video gaming area.
- 1113.4. Notice and connection to the central control computer system.
- 1113.5. Video gaming terminal master lists.
- 1113.7. Off-premises storage of video gaming terminals.

**§ 1113.1. Possession of video gaming terminals generally.**

(a) Except as otherwise provided in this section and 18 Pa.C.S. § 5513 (relating to gambling devices, gambling, etc.), a person may not possess any video gaming terminals in this Commonwealth that may be used for gambling activity.

(b) The following persons and any employee or agent acting on their behalf may possess video gaming terminals in this Commonwealth for the purposes described herein provided that video gaming terminals located outside of a licensed facility may not be used for gambling activity:

(1) A terminal operator, for the purpose of maintaining for use, training or operating video gaming terminals in an establishment licensee's facility.

(2) The holder of a manufacturer license for the purpose of manufacturing, exhibiting, demonstrating, training or preparing for transfer to a supplier licensee or terminal operator.

(3) The holder of a manufacturer or supplier license for the purpose of distributing, repairing, servicing, exhibiting or demonstrating video gaming terminals and any training with regard thereto.

(4) An educational institution for the purpose of teaching video gaming terminals design, operation, repair or servicing.

(5) A manufacturer or supplier of video gaming terminals not licensed in this Commonwealth for the limited purpose of temporary exhibition or demonstration.

(6) A common carrier, for the purpose of transporting video gaming terminals in accordance with § 1113.2 (relating to transportation of video gaming terminals into, within and out of this Commonwealth).

(7) An employee or agent of the Board, the Department, the Pennsylvania State Police or any law enforcement agency of this Commonwealth for the purpose of fulfilling official duties or responsibilities.

(8) Other persons upon a finding that the possession of video gaming terminals by those persons in this Commonwealth is not contrary to the goals and objectives of 4 Pa.C.S. (relating to amusements).

(c) Persons seeking to possess video gaming terminals under subsection (b)(4), (5) and (8) shall submit a petition to the Board as required under § 493a.4 (relating to petitions generally). The petition to the Board must contain all of the following:

(1) The purpose for having the video gaming terminals.

(2) The proposed location of the video gaming terminals.

(3) The time period for which the video gaming terminals will be kept.

(4) How the video gaming terminals will be secured.

(d) Requests approved by the Board may be subject to specific terms and conditions imposed by the Board.

(e) A person authorized to possess video gaming terminals under subsection (d) who wishes to store the video gaming terminals at a location other than the location specified in subsection (c)(2) shall obtain approval from the Board's Executive Director prior to storing the video gaming terminals at the other location.

**§ 1113.2. Transportation of video gaming terminals into, within and out of this Commonwealth.**

(a) In furtherance of 4 Pa.C.S. § 4502 (relating to declaration of exemption from Federal laws prohibiting video gaming terminals), prior to the transport or movement of a video gaming terminals, into, within or out of this Commonwealth, from one person authorized to possess video gaming terminals under § 1113.1 (relating to possession of video gaming terminals generally) to another person, the persons causing the video gaming terminals to be transported or moved shall notify the Bureau of Gaming Laboratory Operations in writing or in an electronic format approved by the Bureau of Gaming Laboratory Operations. The notice shall be submitted no later than the day the video gaming terminals is transported and must include all of the following information:

(1) The name and address of the person shipping or moving the video gaming terminals.

(2) The name and address of the person who owns the video gaming terminals if different from the person shipping or moving the video gaming terminals.

(3) The name and address of a new owner if ownership is being changed in conjunction with the shipment or movement.

(4) The method of shipment or movement and the name and address of the common carrier or carriers, if applicable.

(5) The name and address of the person to whom the video gaming terminals is being sent and the destination of the video gaming terminals if different from that address.

(6) The quantity of video gaming terminals being shipped or moved and the manufacturer's serial number of each machine.

(7) The expected date and time of delivery to, or removal from, any authorized location in this Commonwealth.

(8) The port of entry, or exit, if any, of the video gaming terminals if the origin or destination of the video gaming terminals is outside the continental United States.

(9) The reason for transporting or moving the video gaming terminals.

(b) In addition to the requirements in subsection (a), if a terminal operator is shipping video gaming terminals to or from the terminal operator's approved, off-premises storage location, the terminal operator shall comply with the requirements in subsection (a) and record the movement in the terminal operator's movement log as required under § 1113.5(e) (relating to video gaming terminal master lists). If a video gaming terminal is being transported to the establishment licensee's facility from the terminal operator's approved, off-premises storage location, the terminal operator shall specify in the notice required under subsection (a) whether the video gaming terminals will be placed directly onto the video gaming area or stored off the video gaming area in a restricted area within the establishment licensee's facility.

**§ 1113.3. Video gaming terminals location in video gaming area.**

(a) A video gaming area must consist of one area within an establishment licensee's premises approved by the Board or Executive Director for the placement and operation of all video gaming terminals.

(b) The location of each video gaming terminal must correspond to a specifically identified space in the video gaming area identified numerically and listed on the master list with the identifying asset and serial number of the corresponding video gaming terminal.

**§ 1113.4. Notice and connection to the central control computer system.**

(a) Prior to utilization for gambling activity, unless otherwise authorized by the Board's Executive Director, a video gaming terminal in a video gaming area must be connected or linked to a central control computer system having the capabilities and in compliance with the terms of 4 Pa.C.S. § 3309 (relating to central control computer system).

(b) To ensure activation or disabling, as appropriate, in the central control computer system and the retrieval of real time meter information from the video gaming terminal table in conjunction with the movement of a video gaming terminal, the terminal operator shall provide the Department with written notice of the video gaming terminal movement, prior to any of the following:

- (1) Placement of a video gaming terminal in a video gaming area.
- (2) Movement of a video gaming terminal location in the video gaming area.
- (3) Removal of a video gaming terminal from the video gaming area.

**§ 1113.5. Video gaming terminal master lists.**

(a) Prior to the commencement of operations at an establishment licensee's facility, a terminal operator shall file all of the following with the Bureau of Gaming Laboratory Operations in an electronic format approved by the Bureau of Gaming Laboratory Operations:

- (1) Video Gaming Area Video Gaming Terminal Master List.
- (2) Restricted Area/Off Premises Video Gaming Terminal Master List.

(b) A Video Gaming Area Video Gaming Terminal Master List must list all video gaming terminals located in the video gaming area in consecutive order by the device location number under § 1111.3 (relating to video gaming terminals location in video gaming area) and contain all of the following:

- (1) The date the list was prepared.
- (2) A description of each video gaming terminal that includes all of the following:
  - (i) The location number.
  - (ii) The asset number.
  - (iii) The manufacturer's serial number.
  - (iv) The base denomination, or if configured for multiple denominations, a list of the denominations.
  - (v) The game software/program ID.
  - (vi) The operating system/base ROM.
  - (vii) The manufacturer.
  - (viii) The video gaming terminal model.
  - (ix) The model type (reel or video), if applicable.
  - (x) The game themes/description.
  - (xi) The minimum payout percentage, if applicable.
  - (xii) The machine displayed payout percentage, if applicable.
  - (xiii) The payable ID.
  - (xiv) If the video gaming terminal is a progressive, the type of progressive, the progressive controller type and the progressive software.
  - (xv) The fund transfer/voucher system software.

(c) If a video gaming terminal is configured to allow a patron to select from multiple games or game themes, each game or game theme, minimum and machine displayed payout percentages, if applicable, and payable ID must be listed in the Video Gaming Area Video Gaming Terminal Master List. Instead of listing each game or game theme, minimum and machine displayed payout percentage and payable ID for a video gaming terminal configured to offer multiple game themes with the video gaming terminal, a terminal operator may use a unique generic code for the game theme and attach an appendix which lists the game themes, minimum and machine displayed payout percentages and payable IDs that correspond to each unique generic game theme code.

(d) A Restricted Area/Off Premises Video Gaming Terminal Master List must include all video gaming terminals located off the video gaming area in an approved restricted area within the establishment licensee's facility, or in storage locations in this Commonwealth off the premises of the establishment licensee approved under § 1113.7 (relating to off-premises storage of video gaming terminals) grouped by the location where the video



gaming terminal are located. A Restricted Area/Off Premises Video Gaming Terminal Master List must include all of the following information:

- (1) The date the list was prepared.
- (2) A description of each video gaming terminal that includes all of the following:
  - (i) The location of the video gaming terminal.
  - (ii) The asset number.
  - (iii) The manufacturer's serial number.
  - (iv) The game software/program ID.
  - (v) The operating system/base ROM.
  - (vi) The game theme/description.
  - (vii) The manufacturer.
  - (viii) The video gaming terminal model.
  - (ix) The model type (reel or video), if applicable.
- (e) Once a video gaming terminal has been placed in an authorized location in the video gaming area, stored in a restricted area off the video gaming area but within the establishment licensee's facility approved under this section or in a location in this Commonwealth off the premises of the establishment licensee's facility approved under § 1113.7, all subsequent movements of that video gaming terminal shall be recorded by a terminal operator employee in a video gaming terminal movement log which includes all of the following:
  - (1) The asset number and model and manufacturer's serial number of the moved video gaming terminal.
  - (2) The date and time of movement.
  - (3) The location from which the video gaming terminal was moved.
  - (4) The location to which the video gaming terminal was moved.
  - (5) The date and time of any required notice to the Department in connection with activation or disabling of the video gaming terminal in the central control computer system.
  - (6) The signature of a key employee of the terminal operator verifying the movement of the video gaming terminal in compliance with this section.
  - (f) Documentation summarizing video gaming terminal movements, as described in subsection (e), shall be submitted to the Bureau of Gaming Laboratory Operations in an electronic format approved by the Bureau of Gaming Laboratory Operations on a weekly daily basis.
  - (g) On the first Tuesday of each month a terminal operator shall file an updated Video Gaming Area Video Gaming Terminal Master List and an updated Restricted Area/Off Premises Video Gaming Terminal Master List containing the information required under subsections (b)—(d). The Video Gaming Area Video Gaming Terminal Master List and the Restricted Area/Off Premises Video Gaming Terminal Master List shall be filed in an electronic format with the Bureau of Gaming Laboratory Operations.
  - (h) Persons authorized by the Board to possess video gaming terminals under § 1113.1(c) (relating to possession of video gaming terminals generally) shall file with the Bureau of Gaming Laboratory Operations, in an electronic format approved by the Bureau of Gaming

Laboratory Operations, a complete list of video gaming terminals possessed by the person. The list must comply with all of the following:

- (1) Be denoted as a Video Gaming Terminal Master List.
- (2) Be filed within 3 business days of the initial receipt of video gaming terminals.
- (3) Contain all of the following information:
  - (i) The date on which the list was prepared.
  - (ii) A description of each video gaming terminal including all of the following:
    - (A) The manufacturer.
    - (B) The manufacturer's serial number.
    - (C) The video gaming terminals model.
    - (D) The model type (reel or video), if applicable.
    - (E) Whether or not the video gaming terminal is a progressive, and if it is, the type of progressive.
- (i) On the first Tuesday of each month following the initial filing of a Video Gaming Terminal Master List, the persons enumerated in subsection (h) shall file with the Bureau of Gaming Laboratory Operations, in an electronic format approved by the Bureau of Gaming Laboratory Operations, an updated Video Gaming Terminals Master List containing all of the information required under subsection (h).

**§ 1113.7. Off-premises storage of video gaming terminals.**

(a) A terminal operator may not store video gaming terminals off the premises of an establishment licensee's facility without prior approval from the Board's Executive Director.

(b) A terminal operator seeking to store video gaming terminals off the premises of an establishment licensee's facility shall submit a written request to the Bureau of Gaming Operations for off premise storage. The written request must include all of the following:

- (1) The location and a physical description of the proposed storage facility.
- (2) A description of the type of surveillance system that has been or will be installed at the proposed storage facility.
- (3) The plan to provide 24-hour, 7-day a week security at the proposed storage facility.
- (4) The anticipated number of video gaming terminals that may be stored at the proposed storage facility.
- (c) Before the Board's Executive Director will act on a request for off premise storage of video gaming terminals, the Director of Casino Compliance will inspect the proposed storage facility.

(d) The Board's Executive Director will approve or disapprove requests within 60 days. Requests approved by the Board's Executive Director may be subject to specific terms and conditions imposed by the Board's Executive Director.

**CHAPTER 1114. ACCOUNTING AND INTERNAL CONTROLS—TEMPORARY REGULATIONS**

Sec.

1114.1. Video gaming accounting and internal controls.

**§ 1114.1. Video gaming accounting and internal controls.**

(a) At least 90 days before the commencement of video gaming, a terminal operator licensee or an applicant for a terminal operator license shall submit to the Board for approval all internal control systems and audit protocols for the video gaming operations.

(b) A terminal operator licensee's internal controls and audit protocols must include all of the following:

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

(2) Provide for accurate and reliable financial records related to the conduct of video gaming.

(3) Establish procedures and security for the recordation of wagering, winnings, gross terminal revenue and taxation.

(4) Establish procedures and security standards for the maintenance of video gaming terminals and associated equipment used in connection with the conduct of video gaming.

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

(6) Establish procedures for the collection, recording and deposit of revenue from the conduct of video gaming.

(7) Establish reporting procedures and records required to ensure that all money generated from video gaming is accounted for.

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

(9) Permit access to the establishment licensee premises and terminal operator premises used in connection with video gaming for the Board, the Bureau, the Department and the Pennsylvania State Police to facilitate the ability to perform regulatory oversight and law enforcement functions, respectively.

(c) The submission required under subsection (a) must include a detailed description of the terminal operator's administrative and accounting procedures related to video gaming, including its written system of internal controls, each written system of internal controls must include:

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

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

(3) The record retention policy of the terminal operator.

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

(5) The procedures and controls for ensuring that video gaming terminals directly provide and communicate all

required activities and financial details to the central control computer system as established by the Board.

(6) Procedures to ensure that recorded accountability for assets is compared with actual assets at intervals required by the Board and appropriate action is taken with respect to discrepancies.

(7) Procedures to be utilized by an employee of a terminal operator and establishment licensee in the event of a malfunction of a video gaming terminal that fails to dispense a redemption ticket, or of a redemption terminal which fails to dispense cash upon redemption of the ticket.

(8) Procedures to be utilized by an establishment to prevent minors from entering the video gaming area, which include acceptable documentation relating to proof of age and the examination of these documents by a responsible employee.

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

(d) Prior to authorizing a terminal operator licensee to commence the conduct of video gaming, the Board will review the system of internal controls and audit protocols submitted under subsection (a) to determine whether it conforms to the requirements in this chapter and whether it provides adequate and effective controls for the conduct of video gaming.

(e) If a terminal operator licensee intends to make a change or amendment to its system of internal controls, it shall submit the change or amendment electronically to the Bureau of Gaming Operations in a manner prescribed by the Bureau of Gaming Operations. The terminal operator licensee may implement the change or amendment on the 30th calendar day following the filing of a complete submission unless the terminal operator licensee 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.

(f) If during the 30-day review period in subsection (e), the Bureau of Gaming Operations preliminarily determines that a procedure in a submission contains an insufficiency likely to negatively affect the integrity of video gaming or the control of revenue generated from video gaming, the Bureau of Gaming Operations, by written notice to the terminal operator licensee, will do all of the following:

(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 (e) be tolled and that any internal controls at issue not be implemented until approved under subsection (i).

(g) Examples of submissions that may contain an insufficiency likely to negatively affect the integrity of video gaming include the following:

(1) Submissions that fail to provide information sufficient to permit the review of video gaming.

(2) Submissions that fail to provide for the segregation of incompatible functions so that an employee is not in a position to commit an error or perpetrate a fraud and 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 4 Pa.C.S. (relating to amusements) or this part.

(4) Submissions that would implement operations or accounting procedures not authorized by 4 Pa.C.S. (relating to amusements) or this part.

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

(h) Whenever a change or amendment has been tolled under subsection (f), the terminal operator licensee may submit a revised change or amendment within 30 days of receipt of the written notice from the Bureau of Gaming Operations. The terminal operator licensee may implement the revised change or amendment upon receipt of written notice of approval from the Board's Executive Director or on the 30th calendar day following the filing of the revision unless the terminal operator licensee receives written notice tolling the change or amendment in accordance with subsection (f) or written notice from the Board's Executive Director rejecting the change or amendment.

#### CHAPTER 1115. RECORD RETENTION— TEMPORARY REGULATIONS

Sec.

1115.1. Video gaming record retention.

##### § 1115.1. Video gaming 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 video gaming by a terminal operator licensee or an establishment licensee 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 terminal operator licensee or an establishment licensee shall agree to maintain all books, records and documents pertaining to the conduct of video gaming in a manner and location in this Commonwealth as approved by the Board. All books, records and documents must meet all of the following:

(1) Be organized in a manner to clearly depict by separate records the total amount of money wagered and paid as winnings in all video gaming activity.

(2) Be segregated by separate accounts within the terminal operator licensee or establishment licensee's books, records and documents.

(3) Be immediately available for inspection upon request of the Board, the Bureau, the Department, the Pennsylvania State Police or the Attorney General, or agents thereof, during all hours of operation of video gaming by a terminal operator licensee or establishment licensee.

(4) Be 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) Be retained in a secure location by a terminal operator licensee or establishment licensee that is equipped with a fire suppression system or in a fire proof location on the premises.

(6) Be organized and indexed in a manner to provide immediate accessibility to the Board, the Bureau, the

Department, the Pennsylvania State Police or the Attorney General, or agents thereof.

(7) Be destroyed only after expiration of the minimum retention period of 5 years, unless the Board, upon the written request of a terminal operator licensee or an establishment licensee and for good cause shown, permits the destruction at an earlier date.

#### CHAPTER 1116. CONDUCT OF VIDEO GAMING— TEMPORARY REGULATIONS

Sec.

1116.1. Video gaming area.

1116.2. Video gaming terminals.

1116.3. Redemption terminals.

1116.4. Automated teller machines.

1116.5. Commencement of video gaming generally.

1116.6. Establishment licensee restrictions.

1116.7. Terminal operator licensee restrictions.

1116.8. Restriction on wagering.

##### § 1116.1. Video gaming area.

(a) A video gaming area must be within an establishment licensee's premises and it must be separate and distinct through the installation of a physical barrier from a convenience store or other amenity available to patrons under 21 years of age.

(b) An establishment licensee shall notify and receive approval of the Board, the Bureau or designated staff of the Board prior to making any modification to the video gaming area.

(c) An establishment licensee shall provide all of the following:

(1) The entrance to the video gaming area and the conduct of video gaming are visible to at least one employee of the establishment licensee who holds an occupation permit.

(2) The video gaming area must have one entrance point which serves as the exit point.

(3) The video gaming area must be separated from the remaining establishment premises by a physical barrier which may consist of a wall no higher than 40 inches, a partition or gate which may not obstruct the view of the conduct of video gaming by an employee who holds an occupation permit.

(4) The video gaming area shall, at all times, be monitored, either directly or through live monitoring of video surveillance, by an employee of the establishment licensee who is at least 18 years of age, holds an occupation permit and has completed mandatory training relating to compulsive and problem gambling.

(5) Every employee of the establishment licensee who has a valid occupation permit issued by the Board and who has duties which include monitoring the video gaming area of an establishment licensee shall display the Board-issued occupation permit credential on the outer clothing in a manner clearly visible to patrons and security and surveillance cameras.

(6) Every employee of a terminal operator who has a valid occupation permit issued by the Board and who has duties which require him to enter a video gaming area of an establishment licensee shall, while on the premises of an establishment licensee, display the Board-issued occupation permit credential on the outer clothing in a manner clearly visible to patrons and security and surveillance cameras.

(d) A video gaming area must have at least one redemption terminal which must be the sole and exclusive method to exchange a redemption ticket for cash.



(e) An establishment licensee shall prominently display in a place and manner conspicuous to all patrons entering and exiting the video gaming area signs containing the following statement printed in bold lettering of sufficient size to be visible and readable: "The video gaming area including the entrance and exit is subject to surveillance and video recording."

(f) A video gaming area must comply with §§ 1118.1, 1118.2 and 1119.2 (relating to signage requirements; problem gambling information; and self-exclusion procedure).

#### § 1116.2. Video gaming terminals.

(a) A terminal operator licensee may place up to five video gaming terminals in the video gaming area of an establishment licensee.

(b) A video gaming terminal may not be made available for use prior to being tested and certified by the Board as meeting the requirements in 4 Pa.C.S. § 3701 (relating to testing and certification of terminals).

(c) Video gaming terminals may not have the ability to dispense cash, tokens or anything of value, except redemption tickets which shall only be exchangeable at a redemption terminal or reinserted into another video gaming terminal in the same video gaming area.

#### § 1116.3. Redemption terminals.

(a) A terminal operator licensee shall place at least one redemption terminal in the video gaming area of an establishment licensee.

(b) A redemption terminal in a video gaming area must be equipped with an integrated camera which must record the image of all persons using the redemption terminal and maintain those images for a minimum period of 30 days.

(c) A redemption terminal may not be made available for use prior to being tested and certified by the Board as meeting the requirements in 4 Pa.C.S. § 3701 (relating to testing and certification of terminals).

(d) The redemption terminal must only accept redemption tickets from video gaming terminals in the same video gaming area.

(e) Redemption tickets shall only be exchanged for cash through a redemption terminal located within the same video gaming area.

#### § 1116.4. Automated teller machines.

(a) Automated teller machines may be placed at any location within an establishment licensee's facility. Automated teller machines that offer credit card advances may not be placed in the video gaming area.

(b) An automated teller machine in a video gaming area must be equipped with an integrated camera which must record the image of all persons using the redemption terminal and maintain those images for a minimum period of 30 days.

(c) An automated teller machine located in the video gaming area must have a label on the top and front of the automated teller machine that displays a unique identification number of the automated teller machine. The labels must have white lettering on a dark-colored background, may not be easily removed and must be easily visible by surveillance equipment. The label on the top of the automated teller machine must be at least 1.5 inches by 5.5 inches and the label on the front of the automated teller machine must be at least 1 inch by 2.5 inches.

(d) Automated teller machines located within a video gaming area may not accept ACCESS/Electronic Benefits Transfer Cards.

#### § 1116.5. Commencement of video gaming generally.

(a) Prior to offering video gaming terminals, a terminal operator shall demonstrate all of the following:

(1) The video gaming area complies in all respects with 4 Pa.C.S. Part III (relating to video gaming), this subpart and any technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's web site.

(2) Video gaming terminals utilized in the conduct of video gaming have been tested and approved by the Board in compliance with 4 Pa.C.S. Part III (relating to video gaming), this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's web site.

(3) The video gaming area has been approved by the Board in compliance with 4 Pa.C.S. Part III (relating to video gaming), this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's web site.

(4) The terminal operator licensee's internal control systems and audit protocols have been approved by the Board in compliance with 4 Pa.C.S. Part III (relating to video gaming), this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's web site.

(5) The terminal operator licensee is prepared to implement necessary management controls, surveillance and security precautions to insure the efficient conduct of video gaming.

(6) The terminal operator licensee and establishment licensee's employees are licensed or permitted by the Board and trained in the performance of their responsibilities.

(b) Upon a terminal operator licensee and an establishment licensee meeting the criteria in subsection (a), the Board may authorize the date and time at which the establishment licensee may commence video gaming in the video gaming area.

#### § 1116.6. Establishment licensee restrictions.

(a) An establishment licensee may not permit a person under 21 years of age to play a video gaming terminal or enter the video gaming area.

(b) An establishment licensee may not offer or provide an incentive to a person to engage in video gaming activity.

(c) An establishment licensee may not permit a visibly intoxicated person to play a video gaming terminal.

(d) An establishment licensee may not extend credit or accept a credit card or debit card for play of a video gaming terminal.

(e) An establishment licensee may not make structural alterations or significant renovations to a video gaming area unless the establishment licensee has notified the terminal operator licensee and obtained prior approval from the Board.

(f) An establishment licensee may not move a video gaming terminal or redemption unit after installation by a terminal operator licensee.

#### § 1116.7. Terminal operator licensee restrictions.

(a) No more than five video gaming terminals may be placed on the premises of an establishment licensee.

(b) Redemption tickets may only be redeemed for cash through a ticket redemption terminal located in the same video gaming area or reinserted into another video gaming terminal in the same video gaming area for continued play.

(c) Video gaming terminals located in the video gaming area of an establishment licensee must be placed and operated under a terminal placement agreement approved by the Board.

(d) A terminal operator licensee may not offer or provide an incentive to a person to engage in video gaming activity.

(e) A terminal operator licensee may not extend credit or accept a credit card or debit card for play of a video gaming terminal.

(f) A terminal operator licensee may not give or offer to give, directly or indirectly, any type of inducement to a truck stop establishment to secure or maintain a terminal operator placement agreement. For purposes of this subsection, an "inducement" may not include payment by a terminal operator licensee for the actual costs of renovating an existing area of the footprint of the truck stop establishment for the purpose of making the video gaming area and associated areas available for the conduct of video gaming. The term, as used in this subsection, does not include making the area operate at the premises including wiring, rewiring, software updates, ongoing video gaming terminal maintenance, redemption terminals, network connections, site controllers and costs associated with communicating with the central control computer system, as well as renovations to include flooring, lighting and barriers. Nothing in this section shall preclude a truck stop establishment from making further modifications to its facility to accommodate video gaming terminal.

(g) A terminal operator licensee may not give an establishment licensee a percentage of gross terminal revenue other than 15% of the gross terminal revenue of the video gaming terminals operating in the establishment licensee's premises.

(h) A terminal operator licensee may not operate, install or otherwise make available for public use a video gaming terminal or redemption terminal that has not been obtained from a manufacturer licensee or supplier licensee.

(i) A terminal operator licensee may not make structural alterations or significant renovations to a video gaming area unless the terminal operator licensee has notified the establishment licensee and obtained prior approval from the Board.

(j) A terminal operator licensee may not move a video gaming terminal or redemption unit after installation unless prior approval of the Board is obtained.

**§ 1116.8. Restriction on wagering.**

(a) An individual who holds a license, occupation permit or registration and is currently employed by or is a principal associated with an establishment licensee may not wager at a video gaming terminal in the establishment where the individual is employed or associated.

(b) An individual who holds a license, occupation permit or registration and is currently employed by or is a principal associated with a terminal operator licensee, manufacturer licensee or supplier licensee may not wager at any video gaming terminal in a truck stop establish-

ment at which the individual operates, services, or installs video gaming terminals or associated equipment.

**CHAPTER 1117. VIDEO TERMINAL PLACEMENT AGREEMENTS—TEMPORARY REGULATIONS**

Sec.

1117.1. Board approval of video terminal placement agreements.

1117.2. Minimum standards for terminal placement agreements.

**§ 1117.1. Board approval of video terminal placement agreements.**

A terminal operator licensee may not place and operate video gaming terminals on the premises of an establishment licensee unless under a terminal placement agreement approved by the Board.

**§ 1117.2. Minimum standards for terminal placement agreements.**

(a) A terminal placement agreement submitted to the Board for approval must include all of the following:

(1) A provision that the term of the terminal placement agreement shall be valid for a minimum of 60 months and may not exceed 120 months.

(2) A provision that renders the terminal placement agreement invalid if either the terminal operator license or terminal operator application or the establishment license or the establishment license application is denied, revoked, not renewed, withdrawn or surrendered.

(3) A provision that provides the establishment licensee shall receive 15% of gross terminal revenue from each video gaming terminal located on the premises of the establishment licensee.

(4) The identity of the person who solicited the terminal placement agreement on behalf of a terminal operator licensee or applicant.

(5) Signatures of a representative authorized to bind an applicant for an establishment license or an establishment licensee and a representative authorized to bind an applicant for a terminal operator license or a terminal operator licensee.

(6) A provision acknowledging that a terminal placement agreement may not be transferred or assigned without prior notice to the Board and verification that the individual or entity making the assignment is either a terminal operator applicant or terminal operator licensee and the individual or entity receiving the assignment of the terminal placement agreement is either a terminal operator applicant or terminal operator licensee.

(b) A terminal placement agreement entered into by a truck stop establishment prior to October 31, 2017, with a person or entity for the placement, operation, service or maintenance of video gaming terminals, including an agreement granting a person or entity the right to enter into an agreement or match any offer made after October 31, 2017, is void and will not be approved by the Board.

**CHAPTER 1118. COMPULSIVE AND PROBLEM GAMING—TEMPORARY REGULATIONS**

Sec.

1118.1. Signage requirements.

1118.2. Problem gambling information.

1118.3. Problem gambling training.

1118.4. Advertising

1118.5. Penalties.

**§ 1118.1. Signage requirements.**

(a) An establishment licensee shall conspicuously post signs that include a statement providing all of the following:

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

(2) At least one sign as provided in paragraph (1) shall be posted within the video gaming area and at least one sign shall be posted within 5 feet of each automated teller machine within the establishment licensee’s premises.

(b) An establishment licensee shall post signs that include a statement providing all of the following:

(1) “It is unlawful for any individual under 21 years of age to enter. Individuals violating this prohibition will be removed and may be subject to arrest and criminal prosecution.”

(2) The sign as provided in paragraph (1) shall be prominently posted at the entrance to a video gaming area.

**§ 1118.2. Problem gambling information.**

An establishment licensee shall make available materials provided by the Board regarding compulsive and problem gaming as approved by the Board. The material shall be displayed conspicuously within the video gaming area of each establishment licensee.

**§ 1118.3. Problem gambling training.**

(a) The Board will provide a mandatory training program addressing responsible gaming and compulsive and problem gambling issues for employees and management of an establishment licensee who oversee the establishment licensee’s video gaming area.

(b) Establishment licensees shall pay a fee assessed by the Board to reimburse the Board for the cost of annual training to establishment licensee’s employees and management subject to the training.

(c) At least one employee of the establishment licensee who holds a valid occupation permit and has successfully completed the training program shall be located on the premises and supervising the video gaming area during all times the video gaming terminals are available for play.

**§ 1118.4. Advertising.**

(a) Advertisements related to video gaming used by a terminal operator or establishment licensee or its agent may not:

- (1) Contain false or misleading information.
- (2) Fail to disclose conditions or limiting factors associated with the advertisement.
- (3) Use a font, type size, location, lighting, illustration, graphic depiction or color obscuring conditions or limiting factors associated with the advertisement or the statement required under subsection (b).

(b) Advertisements must contain a gambling assistance message that is similar to one of the following:

(1) If you or someone you know has a gambling problem, help is available. Call (toll free telephone number).

(2) Gambling Problem? Call (toll free telephone number). The text of the gambling assistance message and the font to be used for the statement must comply with in § 501a.7(e) (relating to advertising).

(c) A terminal operator or establishment licensee or its agent shall discontinue as expeditiously as possible the use of a particular advertisement upon receipt of written notice that the Board’s Office of Compulsive and Problem Gaming has determined that the use of the particular

advertisement in this Commonwealth could adversely impact the public or the integrity of video gaming.

**§ 1118.5. Penalties.**

An establishment licensee that fails to fulfill any of the requirements in this chapter shall be assessed an administrative penalty and may have its establishment license suspended by the Board.

**CHAPTER 1119. SELF-EXCLUSION—  
TEMPORARY REGULATIONS**

Sec.	
1119.1.	Definitions.
1119.2.	Self-exclusion procedure.
1119.3.	Video gaming self-exclusion list.
1119.4.	Duties of video gaming establishment licensees
1119.5.	Removal from video gaming self-exclusion list.

**§ 1119.1. Definitions.**

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

*OCPG*—The Office of Compulsive and Program Gambling of the Board.

*Video gaming activity*—The play of video gaming terminals at the premises of an establishment licensee.

*Video gaming related activity*—An activity related to the play of video gaming terminals including applying for player club memberships or credit, cashing checks, or accepting a complimentary gift, service, promotional item or other thing of value at an establishment licensee’s premises.

*Video gaming self-excluded person*—A person whose name and identifying information is included, at the person’s own request, on the video gaming self-exclusion list maintained by the Board.

*Video gaming self-exclusion list*—A list of names and identifying information of persons who, under this chapter, have voluntarily agreed to all of the following:

- (i) Excluded from the video gaming area where video gaming activity is conducted.
- (ii) Excluded from engaging in all video gaming related activities at an establishment licensee’s facility.
- (iii) Prohibited from collecting any winnings or recovering any losses resulting from video gaming activity.

*Winnings*—Any money or thing of value received from, or owed by, an establishment licensee or terminal operator licensee as a result of a fully executed video gaming transaction.

**§ 1119.2. Self-exclusion procedure.**

(a) A person may request to be self-excluded from video gaming activities of an establishment licensee. The exclusion may be for a specific establishment licensee or throughout this Commonwealth.

(b) A person requesting self-exclusion shall do all of the following:

- (1) Acknowledge that the person is a problem gambler.
- (2) Agree that, during any period of voluntary exclusion, the person may not collect any winnings or recover any losses resulting from any video gaming activity within establishment licensees and that the person may be subject to arrest for trespass if found within a video gaming area of an establishment licensee.



(3) Agree to other conditions established by the Board.

(c) Forms to be used to request placement on the video gaming self-exclusion list are available on the Board's web site and at each establishment licensee's facility.

(d) A person wishing to place himself on the video gaming self-exclusion list at a single establishment licensee's facility may do so by the following:

(1) Submitting a completed Request for Voluntary Self-exclusion from Video Gaming Activities Form to the Board.

(2) Include all of the following identifying information:

(i) Name, including any aliases or nicknames.

(ii) Date of birth.

(iii) Address of current residence.

(iv) Telephone number.

(v) A copy of the individual's photo driver's license, passport or other recent photo identification.

(vi) Physical description of the person, including height, weight, gender, hair color, eye color and any other physical characteristic that may assist in the identification of the person.

(vii) Name, address and county of the establishment licensee's facility at which the person wishes to be excluded from video gaming activity.

(viii) The length of time the individual seeks to be excluded from video gaming activities.

(e) A person wishing to place himself on the video gaming self-exclusion list at all video gaming establishments in this Commonwealth may do so by the following:

(1) Submitting a completed Request for Voluntary Self-exclusion from Video Gaming Activities Form to the Board.

(2) Include all of the following identifying information:

(i) Name, including any aliases or nicknames.

(ii) Date of birth.

(iii) Address of current residence.

(iv) Telephone number.

(v) A copy of the individual's photo driver's license, passport or other recent photo identification.

(vi) Physical description of the person, including height, weight, gender, hair color, eye color and any other physical characteristic that may assist in the identification of the person.

(vii) Specify that the person desires to be excluded from video gaming activity in this Commonwealth.

(viii) The length of time the individual seeks to be excluded from video gaming activities.

(f) The length of self-exclusion requested by a person must be one of the following:

(1) One year (12 months).

(2) Five years.

(3) Lifetime.

(g) A request for self-exclusion must include a signed release which meets all of the following:

(1) Acknowledges that the request for self-exclusion has been made voluntarily.

(2) Certifies that the information provided in the request for self-exclusion is true and accurate.

(3) Acknowledges that the individual requesting self-exclusion is a problem gambler.

(4) Acknowledges that if the individual is discovered in a video gaming area, that the individual will be subject to removal and arrest for criminal trespass under 18 Pa.C.S. § 3503 (relating to criminal trespass) and the individual's winnings will be subject to confiscation and remittance to support compulsive and problem gambling programs.

(5) Releases, indemnifies, holds harmless and forever discharges the Commonwealth, the Board, and all terminal operator licensees and establishment licensees from claims, damages, losses, expenses or liability arising out of, by reason of or relating to the video gaming self-excluded person or to any other party for any harm, monetary or otherwise, which may arise as a result of one or more of the following:

(i) The failure of an establishment licensee to withhold video gaming privileges from or restore video gaming privileges to a video gaming self-excluded person.

(ii) Otherwise permitting or not permitting a video gaming self-excluded person to engage in video gaming activity in a video gaming establishment while on the list of video gaming self-excluded persons.

(iii) Confiscation of the individual's winnings.

(h) Video gaming self-exclusions for 1 year or 5 years remain in effect until the period of video gaming self-exclusion concludes.

### § 1119.3. Video gaming self-exclusion list.

(a) The Board will maintain the official video gaming self-exclusion list and notify each establishment licensee of additions to or deletions from the list on a biweekly basis by first class mail or by transmitting the video gaming self-exclusion list electronically directly to each establishment licensee and terminal operator licensee.

(b) The notice provided to establishment licensees and terminal operator licensees by the Board will include all of the following information concerning a person who has been added to the video gaming self-exclusion list:

(1) Name, including any aliases or nicknames.

(2) Date of birth.

(3) Address of residence.

(4) Telephone number.

(5) A copy of the individual's photo driver's license, passport or other recent photo identification.

(6) Physical description of the person, including height, weight, gender, hair color, eye color and other physical characteristic that may assist in the identification of the person.

(c) The notice provided to establishment licensees and terminal operator licensees by the Board concerning a person whose name has been removed from the video gaming self-exclusion list will include the name and date of birth of the person.

(d) A establishment licensee and terminal operator licensee shall maintain a copy of the video gaming self-exclusion list and establish procedures to ensure that the copy of the self-exclusion list is updated and that all appropriate employees and agents of the establishment licensee are notified of any addition to or deletion from the list within 5 business days after the day notice is

mailed to each establishment licensee and terminal operator licensee or transmitted electronically under subsection (a).

(e) Information furnished to or obtained by the Board under this chapter will be deemed confidential and will not be disclosed except in accordance with this chapter.

(f) Establishment licensees, terminal operator licensees, and employees or agents thereof may not disclose the name of, or any information about, a person who has requested video gaming self-exclusion to anyone other than employees and agents of the establishment licensee and terminal operator licensee whose duties and functions require access to the information.

(g) A video gaming self-excluded person may not collect in any manner or in any proceeding any winnings or recover any losses arising as a result of any gaming activity for the entire period of time that the person is on the video gaming self-exclusion list.

(h) Winnings incurred by a video gaming self-excluded person shall be remitted to the Board to support compulsive and problem gambling programs of the Board.

(i) For the purposes of this section, winnings issued to, or redeemed by a video gaming self-excluded person will be presumed to constitute winnings subject to remittance to the Board.

**§ 1119.4. Duties of video gaming establishment licensees.**

(a) An establishment licensee shall train its employees and establish procedures to do all of the following:

(1) Identify a video gaming self-excluded person when present in the video gaming area and, upon identification, immediately notify employees of the establishment licensee whose duties include the removal of video gaming self-excluded persons.

(2) Deny video gaming related activities to a video gaming self-excluded person.

(3) Ensure that video gaming self-excluded persons do not receive, either from the video gaming establishment licensee or any agent thereof, targeted advertisements of video gaming activities at its premises.

(4) Notify the Pennsylvania State Police and the Bureau of the presence of a video gaming self-excluded person in the video gaming area.

(5) Prepare a report of the presence of a video gaming self-excluded person in a video gaming area on a form provided by the Board and to submit that completed form to the OCPG and the Bureau within 24 hours for each occurrence of a video gaming self-excluded person being present in a video gaming area.

(6) Make available to patrons written materials explaining the video gaming self-exclusion program.

(b) The list of video gaming self-excluded persons is confidential, and any distribution of the list to an unauthorized source constitutes a violation of 4 Pa.C.S. Part III (relating to video gaming).

**§ 1119.5. Removal from video gaming self-exclusion list.**

(a) For individuals who are video gaming self-excluded for 1 year or 5 years, upon the conclusion of the period of self-exclusion, the individual will be removed from the video gaming self-exclusion list without further action on his part.

(b) For individuals who have elected to be video gaming self-excluded for lifetime, the individual will not be removed from the video gaming self-exclusion list until all of the following have occurred:

(1) At least 10 years has elapsed since the individual placed himself on the video gaming self-exclusion list for lifetime.

(2) The individual has filed a petition with the Board's Office of Hearings and Appeals requesting to be removed from the video gaming self-exclusion list.

(3) The individual has presented facts and circumstances which, in the Board's discretion, demonstrate a compelling reason for the Board to grant early removal from the lifetime self-exclusion list.

(4) The Board has found by a preponderance of the evidence that the person should be removed from the video gaming self-exclusion list and issues an order to that effect.

**CHAPTER 1120. EXCLUSION OF PERSONS FROM VIDEO GAMING—TEMPORARY REGULATIONS**

Sec.	
1120.1.	Definitions.
1120.2.	Maintenance and distribution of the exclusion list.
1120.3.	Criteria for exclusion or ejection.
1120.4.	Duties of the Bureau and the Office of Enforcement Counsel.
1120.5.	Placement on the exclusion list.
1120.6.	Demand for Hearing on the exclusion of a person.
1120.7.	Board review.
1120.8.	Duties of establishment licensees.
1120.9.	Petition to remove name from the exclusion list.

**§ 1120.1. Definitions.**

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

*Career or professional offender*—A person, who for the purpose of economic gain, engages in activities that are deemed criminal violations under 18 Pa.C.S. (relating to Crimes Code) or equivalent criminal violations in other jurisdictions, or engages in unlawful activities in 4 Pa.C.S. § 1518(a) (relating to prohibited acts; penalties).

*Cheat*—

(i) To defraud or steal from any player or video gaming licensee of the Commonwealth while operating or playing a video gaming terminal, including causing, aiding, abetting or conspiring with another person to do so.

(ii) To alter or causing, aiding, abetting or conspiring with another person, without authorization, to alter the elements of chance, method of selection or criteria which determines all of the following:

- (A) The result of a video gaming terminal game.
- (B) The amount or frequency of payment in a video gaming terminal game.
- (C) The value of a wagering instrument.
- (D) The value of a wagering credit.

(iii) The term does not include altering a video gaming terminal or associated equipment for required maintenance and repair.

*Excluded person*—A person who has been placed upon the exclusion list and who is required to be excluded or ejected from an establishment licensee facility.

*Exclusion list*—A list of names of persons who are required to be excluded or ejected from an establishment licensee's facility.

*OCPG*—The Office of Compulsive and Problem Gambling of the Board.

**§ 1120.2. Maintenance and distribution of the exclusion list.**

(a) The Board will maintain a list of persons to be excluded or ejected from an establishment licensee facility.

(b) The exclusion list will be distributed to every terminal operator licensee and establishment licensee in this Commonwealth, who shall acknowledge receipt thereof in writing or electronically.

(c) All of the following information will be provided to the terminal operator licensee and establishment licensee for each person on the exclusion list:

(1) The full name and all aliases the person is believed to have used.

(2) A description of the person's physical appearance, including height, weight, type of build, color of hair and eyes, and other physical characteristics which may assist in the identification of the person.

(3) The person's date of birth.

(4) The date the person was added to the list.

(5) A recent photograph, if available.

(6) The last known address of record.

(7) Other identifying information available to the Board.

(8) The reason for placement on the excluded persons list.

**§ 1120.3. Criteria for exclusion or ejection.**

(a) The exclusion list may include a person who meets one or more of the following criteria:

(1) A career or professional offender whose presence in an establishment licensee's facility would, in the opinion of the Board, be inimical to the interest of the Commonwealth or of licensed video gaming therein, or both.

(2) An individual with a known relationship or connection with a career or professional offender whose presence in an establishment licensee's facility would be inimical to the interest of the Commonwealth or of licensed video gaming therein, or both.

(3) A person who has been convicted of a criminal offense under the laws of any state, or of the United States, which is punishable by 1 year or more in prison, or who has been convicted of any crime or offense involving moral turpitude, and whose presence in a licensed facility would be inimical to the interest of the Commonwealth or of licensed video gaming therein, or both.

(4) A person whose presence in a licensed facility would be inimical to the interest of the Commonwealth or of licensed gaming therein, or both, including:

(i) Persons who cheat.

(ii) Persons whose gaming privileges have been suspended by the Board.

(iii) Persons whose Board permits, licenses, registrations, certifications or other approvals have been revoked.

(iv) Persons who pose a threat to the safety of the patrons, employees or persons on the property of an establishment licensee's facility.

(v) Persons with a history of conduct involving the disruption of the gaming operations within a licensed facility.

(vi) Persons subject to an order of a court of competent jurisdiction in this Commonwealth excluding those persons from licensed facilities.

(vii) Persons who have been charged, indicted or convicted of a gambling crime or a crime related to the integrity of gaming operations in this Commonwealth or another jurisdiction.

(viii) Persons who have performed an act or have a notorious or unsavory reputation that would adversely affect public confidence and trust in gaming.

(b) For purposes of subsection (a), a person's presence may be considered inimical to the interest of the Commonwealth or of licensed video gaming therein, or both if known attributes of the person's character and background meet one or more of the following criteria:

(1) Are incompatible with the maintenance of public confidence and trust in the credibility, integrity and stability of the operation of a licensed facility.

(2) May reasonably be expected to impair the public perception of, and confidence in, the strict regulatory process created by 4 Pa.C.S. Part III (relating to video gaming).

(3) Create or enhance a risk of the fact or appearance of unsuitable, unfair or illegal practices, methods or activities in the conduct of gaming or in the business or financial arrangements incidental thereto.

(c) A finding of inimicality may be based upon the following:

(1) The nature and notoriety of the character or background of the person.

(2) The history and nature of the involvement of the person with licensed gaming in this Commonwealth or another jurisdiction.

(3) The nature and frequency of contacts or associations of the person with an establishment licensee.

(4) Other factors reasonably related to the maintenance of public confidence in the efficacy of the regulatory process and the integrity of video gaming operations.

(d) A person's race, color, creed, national origin or ancestry, or sex will not be a reason for placing the name of a person upon the exclusion list.

**§ 1120.4. Duties of the Bureau and the Office of Enforcement Counsel.**

(a) The Bureau will, on its own initiative, or upon referral by a law enforcement agency or an establishment licensee, investigate a person to determine whether the person meets the criteria for exclusion provided in 4 Pa.C.S. § 3901 (relating to exclusion or ejection of certain persons) and § 1119.3 (relating to video gaming self-exclusion list).

(b) If, upon completion of an investigation, the Bureau determines that an individual should be placed on the exclusion list, the Office of Enforcement Counsel will file a petition for exclusion with the Clerk identifying the candidate and setting forth a factual basis for the petition. The petition must include information demonstrating that the individual satisfies the criteria for exclusion or ejection under 4 Pa.C.S. § 3901 or this chapter.

**§ 1120.5. Placement on the exclusion list.**

(a) A person may be placed on the exclusion list upon any of the following:



(1) Entry of an order of the Board.

(2) Receipt of an order from a court of competent jurisdiction in this Commonwealth, excluding or ejecting the person from establishment licensee facilities in this Commonwealth.

(b) The placement of a person on the exclusion list shall have the effect of requiring the exclusion or ejection of the excluded person from establishment licensee facilities.

(c) An excluded person may not collect in any manner or in any proceeding any winnings or recover any losses arising as a result of any gaming activity for the entire period of time that the person is on the Board's exclusion list.

(d) Winnings incurred by an excluded person shall be remitted to the Board to support compulsive and problem gambling programs of the Board.

(e) For the purposes of this section, any winnings issued to, found on or about, or redeemed by an excluded person shall be presumed to constitute winnings subject to remittance to the Board.

**§ 1120.6. Demand for Hearing on the exclusion of a person.**

(a) Upon the filing of a petition for exclusion, the Office of Enforcement Counsel will serve the petition upon the person by personal service or certified mail at the last known address of the person. The notice will inform the person of the right to a hearing under 4 Pa.C.S. § 3901(h) (relating to exclusion or ejection of certain persons) and include a copy of the petition.

(b) Upon service of the petition, the person subject to the petition shall have 30 days to demand a hearing before the Board or presiding officer. Failure to demand a hearing within 30 days after service will be deemed an admission of all matters and facts alleged in the Office of Enforcement Counsel's petition for exclusion and preclude the person from having an administrative hearing.

(c) If a formal hearing is demanded by the person named in the petition for exclusion, a hearing will be scheduled as provided in § 491a.8 (relating to hearings generally). At the hearing, the Office of Enforcement Counsel will have the burden of proof to demonstrate that the person named in the petition for exclusion satisfies the criteria for exclusion in 4 Pa.C.S. § 3901 or § 1120.3 (relating to criteria for exclusion or ejection). Unless the matter is heard directly by the Board, the presiding officer will prepare a report and recommendation as provided in § 494a.4 (relating to report or report and recommendation of the presiding officer) for consideration by the Board.

**§ 1120.7. Board review.**

After a hearing, or if a hearing was not requested and the facts in the petition are deemed admitted, the Board may:

(1) Issue an order placing the person's name on the exclusion list.

(2) Issue an order removing or denying the placement of the person's name on the exclusion list.

(3) Refer the matter to a presiding officer for further hearing.

**§ 1120.8. Duties of establishment licensees.**

(a) Establishment licensees shall establish procedures to prevent violations of this chapter and submit a copy of the procedures to the Director of OCPG 30 days prior to initiation of gaming activities at the establishment licensee's facility. An establishment licensee will be notified in writing of any deficiencies in the plan and may submit revisions to the plan to the Director of OCPG. The establishment licensee may not commence operations until the Director of OCPG approves the procedures. Amendments to these procedures shall be submitted to and approved by the Director of OCPG prior to implementation.

(b) Establishment licensees shall distribute copies of the exclusion list to the appropriate employees. Additions, deletions or other updates to the list shall be distributed by an establishment licensee to its employees within 2 business days of the establishment licensee's receipt of the updates from the Board.

(c) An establishment licensee shall exclude or eject from its establishment licensee facility all of the following:

(1) An excluded person.

(2) A self-excluded person.

(d) If an excluded person enters, attempts to enter or is in an establishment licensee facility and is recognized by employees of the establishment licensee, the establishment licensee shall do all of the following:

(1) Immediately notify law enforcement with jurisdiction over the establishment licensee's facility.

(2) Notify the Director of OCPG and the Bureau in writing within 24 hours.

(e) The establishment licensee has the continuing duty to inform the Bureau, in writing, of the names of persons the establishment licensee believes are appropriate for placement on the exclusion list.

**§ 1120.9. Petition to remove name from the exclusion list.**

(a) An excluded person may file a petition with the Clerk to request a hearing for removal of his name from the exclusion list at any time after 5 years from the placement of his name on the exclusion list.

(b) The petition shall be signed by the excluded person, contain supporting affidavits and state the specific grounds believed by the petitioner to constitute good cause for removal from the exclusion list. Upon receipt of the petition, the Office of Enforcement Counsel may file an answer in accordance with § 493a.5 (relating to answers to complaints, petitions, motions and other filings requiring a response).

(c) An excluded person who is barred from requesting a hearing concerning his removal from the exclusion list by the 5-year period of exclusion in subsection (a) may petition the Board for early consideration at any time. An excluded person may not, within the 5-year period of exclusion, file more than one petition for early consideration.

(d) A petition for early consideration must contain the information required under subsection (b). Upon receipt of the petition, the Office of Enforcement Counsel may file an answer in accordance with § 493a.5.

(e) The Board will consider, when making its decision on a petition for early consideration, the nature of the facts and circumstances giving rise to the person's placement on the exclusion list, and whether there are extraordinary facts and circumstances warranting early consideration of the excluded person's request for removal from the exclusion list.

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