RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 91 AND 92a]

Water Quality Management and National Pollutant Discharge Elimination System Permit Application and Annual Fees

The Environmental Quality Board (Board) amends Chapters 91 and 92a (relating to general provisions; and National Pollutant Discharge Elimination System permitting, monitoring and compliance) as set forth in Annex A. The amendments to Chapter 91 address permit application and Notice of Intent (NOI) fee requirements for Water Quality Management (WQM) permits and include other clarifications under §§ 91.1, 91.22, 91.27, 91.36 and 91.52. The amendments to Chapter 92a address permit application, NOI, and annual fee requirements for National Pollutant Discharge Elimination System (NPDES) permits and include other clarifications under §§ 92a.26, 92a.32 and 92a.62 (relating to application fees; stormwater discharges; and annual fees).

This final-form rulemaking was adopted by the Board at its meeting of March 16, 2021.

A. *Effective Date*

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

B. *Contact Persons*

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C. *Statutory Authority*

This final-form rulemaking is authorized under sections 5(b)(1) and 6 of The Clean Streams Law (CSL) (35 P.S. §§ 691.5(b)(1) and 691.6) and section 1920-A of the Administrative Code of 1929 (71 P.S. § 510-20), which authorize the Board to promulgate rules and regulations necessary for the Department to perform its work, including the charging and collecting of reasonable filing fees for applications filed and for permits issued under the CSL.

D. *Background and Purpose*

Water resources of this Commonwealth are among the most abundant in the nation and protecting the quality of these waters requires significant Department resources to administer the NPDES and WQM programs (collectively, "Clean Water Program"). Among all the states in the nation, this Commonwealth ranks in the top five for number of NPDES-permitted facilities and in the top ten for surface water miles. This Commonwealth has more municipal separate storm sewer system (MS4) NPDES permits and more combined sewer overflows (CSO) than any other state in the country. The Department receives over 2,600 applications and NOIs for NPDES and WQM permits annually for: discharges of sewage, industrial waste, industrial stormwater and municipal stormwater; operation of concentrated animal feeding operations (CAFO); utilization of pesticides; land application of sewage and industrial wastes; and construction of sewage and industrial waste pollution control facilities.

The Department continuously works to improve business processes to reduce the cost of administering the Clean Water Program while maintaining the Department's core responsibility of serving the public by protecting public health and the environment. However, as development needs within this Commonwealth continue to expand, the Department's workload also increases over time.

Under sections 202, 307 and 402(a) of the CSL (35 P.S. §§ 691.202, 691.307 and 691.402(a)), Department permits are required for any discharge of sewage or industrial waste or for any other activity that creates a danger of pollution of waters of this Commonwealth. The CSL also requires approval from the Department prior to the construction of infrastructure that is used to treat or convey sewage and industrial wastes under sections 207 and 308 of the CSL (35 P.S. §§ 691.207 and 691.308).

The Board has promulgated regulations in Chapters 91 and 92a for the Department to administer the programs authorized by the CSL. Chapter 91 establishes a WQM program for sewage and industrial waste construction projects, discharges to groundwater through the land application of sewage and industrial wastes, and the use of pesticides in surface waters. Section 91.22 (relating to fees) provides a fee schedule for WQM permit applications. Most of these fees have not been updated since 1971.

Chapter 92a establishes a permit, monitoring and compliance program for discharges to surface waters of this Commonwealth under the CSL, consistent with the NPDES permitting requirements of section 402 of the Federal Clean Water Act (33 U.S.C.A. § 1342). The Department has been delegated the authority to administer the Federal NPDES permitting program in this Commonwealth by the United States Environmental Protection Agency (EPA) since 1978.

Chapters 91 and 92a authorize the Department to issue individual WQM and NPDES permits with terms and conditions specific to the project, discharge or activity described in the permit application, and to issue general permits for categories of projects, discharges and activities that can be regulated by a standard set of terms and conditions. Persons seeking individual permits submit permit applications, while persons seeking coverage under a general permit submit NOIs.

The Board has established fees for permit applications and NOIs in §§ 91.22 and 92a.26. In addition, in 2010 the Board established an annual NPDES permit fee to aid in funding the cost of the Department's administration of the NPDES program. 40 Pa.B. 5767 (October 9, 2010). The Chapter 91 permit fees were initially promulgated by the Board in 1971 and subsequently amended in

1980 and 2000. See 1 Pa.B. 1804 (September 2, 1971); 10 Pa.B. 4294 (November 7, 1980); and 30 Pa.B. 521 (January 29, 2000).

The NPDES fee schedule for individual NPDES permits remained the same from 1978 until 2010. In 2010, the Board promulgated an updated fee schedule reflecting increased fees for most categories of individual NPDES permits in § 92a.26 and promulgated new annual fees in § 92a.62. 40 Pa.B. 5767. These fee increases provided needed revenue to administer the NPDES program and reduced reliance on general tax revenue to support the NPDES program.

Under both §§ 92a.26 and 92a.62, the Department is required to report to the Board every 3 years on the adequacy of the fees to administer the NPDES program. The report analyzes the fiscal solvency of programs by comparing program funding sources, including fees, with the costs to administer the program. Fee reports may contain recommendations to increase fees to eliminate any identified funding disparities.

On February 18, 2014, the Department presented its first report to the Board under the NPDES permit fee schedules promulgated in 2010. The report documented that the primary sources of revenue to fund the NPDES program were general tax revenue (50%), Federal grants (33%) and permit fees (17%). The analysis also highlighted that NPDES permit fees in this Commonwealth are 50% to 90% lower than surrounding and comparable states for most categories of NPDES permits. On August 21, 2018, the Department presented its second report to the Board, which illustrated similar conditions as the 2014 report.

Based on current staffing and activities, the Department spends approximately $20 million per year to administer the NPDES program. These funds cover the following activities:

- Inspection and compliance monitoring of NPDES-permitted facilities—36%;
- NPDES permit application/NOI reviews—29%;
- Assessment of surface waters throughout this Commonwealth, including development of Total Maximum Daily Loads (TMDL) to support permitting activities—28%;
- Program management—5%; and
- Program administration—2%.

The Department spends approximately $1.4 million per year to administer the WQM program, which involves activities similar to the NPDES program, except for surface water assessment. The primary sources of revenue to fund the WQM program are general tax revenue (90%) and permit fees (10%).

The benefits and justifications for the permit fee increases are further explained in section F of this preamble.

The Department's Bureau of Clean Water (BCW), which is responsible for the administration of the Clean Water Program, presented proposed changes to the fees in Chapters 91 and 92a to the Department's Agricultural Advisory Board (AAB) at meetings on: April 28, 2016; June 23, 2016; October 26, 2017; and August 29, 2019. The Department presented this final-form rulemaking to AAB on January 27, 2020, and October 22, 2020.

The BCW presented proposed changes to the fees in Chapters 91 and 92a to the Department's Water Resources Advisory Committee (WRAC) at meetings on: March 24, 2016; September 21, 2016; and October 25, 2017. This final-form rulemaking was also presented to WRAC on January 30, 2020, and November 19, 2020.

E. *Summary of Final-Form Rulemaking and Changes from Proposed to Final-Form Rulemaking*

This final-form rulemaking is summarized as follows, including modifications the Board has made compared to the proposed rulemaking published at 49 Pa.B. 1518 (March 30, 2019) and 49 Pa.B. 1665 (April 6, 2019).

§ 91.1. Definitions

This final-form rulemaking adds definitions for the terms "major facility," "minor facility" and "small flow treatment facility," which are used in the revisions to § 91.22. The definitions are consistent with the definition of these terms in Chapter 92a. In addition, the reference to § 92.1 in the definition of "CAFO" is updated to § 92a.2 (relating to definitions). No change is made to these definitions from proposed rulemaking to final-form rulemaking.

§ 91.22. WQM permit fees

Subsection (a) currently identifies WQM permit application fees for single residence sewage treatment plants ($25), sewer extensions ($100) and other WQM permits ($500). The existing regulation does not indicate whether these fees apply to different types of permit applications (that is, new, amendment, renewal and transfer). This final-form rulemaking amends subsection (a) to expand the categories of WQM permit applications from 3 to 12, and clarify the fees for the various types of permit applications. These categories are based on an analysis conducted by the Department of the typical complexity and amount of time necessary to review the various WQM permit applications received. These fee categories were also based on the need for the Department to conduct inspections during or following construction of the facilities.

The fee schedule in subsection (a) is amended from the proposed to this final-form rulemaking to reduce the fees for new joint pesticide WQM permits and new manure storage and wastewater impoundment WQM permits. The fee for a new joint pesticide permit has been reduced from the proposed rulemaking from $500 to $250. The fee for a new manure storage and wastewater impoundment permit has been reduced from the proposed rulemaking from $2,500 to $1,000. The Board understands the need to balance concerns of the regulated community with the need for a robust program to protect water resources within this Commonwealth. Accordingly, this final-form rulemaking has reduced fees from the proposed rulemaking for the previously mentioned WQM permit categories that include or are likely to include large numbers of small businesses and farmers. These revisions were made in response to comments that fees in the proposed rulemaking would negatively impact small businesses and agricultural operations, and the fact that the types of permit applications submitted to the Department by small businesses and agricultural operations are generally less complex and require less effort to process than applications submitted by larger businesses and other applicants. Similarly, inspections of agricultural operations and facilities operated by small businesses to evaluate compliance with permit terms and conditions typically require less time compared with facilities operated by larger businesses or other applicants.

Subsection (b) currently establishes a ceiling of $500 for general WQM permit NOI fees. The Board is amending this subsection to remove this ceiling and replace it with a requirement that NOI fees for general WQM permits

may not exceed the amount established for individual WQM permit application fees for equivalent projects. No change is made to this subsection from the proposed rulemaking to this final-form rulemaking.

Subsection (c) in the proposed rulemaking provided authorization to the Department to adjust WQM permit application fees every 2 years based on the United States Bureau of Labor Statistics Employment Cost Index for State and Local Government Compensation (ECI), as necessary to meet the costs of administering the Statewide Clean Water Program. The Board received numerous comments questioning the statutory authority for this provision and offering concerns that the public would not have an opportunity to comment on fee increases in the future. While the Department maintains it has statutory authority for this provision, the Board has elected to remove the provision from this final-form rulemaking.

Subsection (c) of this final-form rulemaking (subsection (d) of the proposed rulemaking) requires the Department to review the adequacy of WQM permit fees every 3 years and provide to the Board a written report identifying disparities between the amount of program income generated by the fees and the costs to administer the program, along with recommendations to increase fees to eliminate any disparities. This provision is similar to an existing provision for NPDES permit fees in § 92a.26(h). The only change from the proposed rulemaking to this final-form rulemaking is the subsection designator.

Subsection (d) of this final-form rulemaking (subsection (e) of the proposed rulemaking) allows the Department to enter into an agreement with any Federal or Commonwealth agency or independent Commonwealth commission to provide an alternative funding mechanism for the WQM program rather than the payment of the fees established in § 91.22. This subsection is amended from the proposed rulemaking to provide the opportunity for financially distressed municipalities, as determined by the Department of Community and Economic Development (DCED) under the Municipalities Financial Recovery Act (53 P.S. §§ 11701.101—11701.712), to be exempted from WQM permit application fees.

§ 91.27. General WQM permit

The reference to Chapter 92 is amended to Chapter 92a. No change is made to this section from the proposed rulemaking to this final-form rulemaking.

§ 91.36. Pollution control and prevention at agricultural operations

The references to § 92.5a and (e)(1)(i) (relating to prohibitions) are amended to § 92a.29 and (e)(1)(i) (relating to CAFO), respectively. No change is made to this section from the proposed rulemaking to this final-form rulemaking.

§ 91.52. Procedural requirements for underground disposal

The reference to Chapter 92 is amended to Chapter 92a. No change is made to this section from the proposed rulemaking to this final-form rulemaking.

§ 92a.26. NPDES permit application fees

Subsection (a) is amended to require payment of NPDES permit application fees to the "Commonwealth of Pennsylvania" rather than the "Clean Water Fund" consistent with the Commonwealth's fiscal management policies. This subsection is further modified to clarify that for fees based on the annual average design flow of a facility, the design flows of all discharges from the facility are totaled. No change is made to this subsection from the proposed rulemaking to this final-form rulemaking.

Subsection (b) is amended to combine the provisions currently in subsections (b)—(d) and subsections (c) and (d) are reserved. This subsection addresses permit application fees for new individual NPDES permits and the reissuance of individual NPDES permits associated with mining activity. Due to corresponding amendments to the annual fee provisions in § 92a.62 (discussed further as follows), subsection (b) removes reissuance fees for all NPDES permits except for mining permits. The facility categories remain the same except that a new category for "pesticides" is added. The fees are based on an analysis of the Department's costs to review the various types of permit applications and the Department resources required for ongoing inspections and compliance monitoring of permitted facilities.

The fee schedule for new NPDES permit applications in subsection (b) has been modified from the proposed rulemaking to this final-form rulemaking in response to concerns from small businesses and agricultural operations. The Board understands the need to balance concerns of the regulated community with the need for a robust program to protect water resources within this Commonwealth. Accordingly, this final-form rulemaking has reduced fees from the proposed rulemaking for categories of NPDES permits that include or are likely to include large numbers of small businesses and farmers. The fees for new individual NPDES permit applications have decreased for the following fee categories:

- Small Flow Treatment Facility—from $1,000 to $500;
- Minor Sewage Facility < 0.05 million gallons per day (MGD)—from $1,500 to $1,000;
- Minor Industrial Waste Facility not covered by effluent limitations guideline (ELG)—from $5,000 to $3,000;
- Minor Industrial Waste Facility covered by ELG—from $7,500 to $6,000;
- Industrial Stormwater—from $5,000 to $3,000; and
- CAFO—from $3,000 to $500.

These revisions were made in response to comments that fees in the proposed rulemaking would negatively impact small businesses and agricultural operations, and the fact that the types of permit applications submitted to the Department by small businesses and agricultural operations are generally less complex and require less effort to process than applications submitted by larger businesses and other applicants. Similarly, inspections of agricultural operations and facilities operated by small businesses to evaluate compliance with permit terms and conditions typically require less time compared with facilities operated by larger businesses or other applicants.

Subsection (e) addresses fees associated with individual NPDES permit transfers. This final-form rulemaking does not change the fees for the transfer of most individual NPDES permits. This subsection clarifies that transfer fees apply to individual NPDES permits for CAFOs, MS4s and Concentrated Aquatic Animal Production (CAAP) facilities, as well as other types of individual NPDES permits.

In the proposed rulemaking, subsection (e) included a $500 fee for an application to transfer an individual NPDES CAFO permit; in this final-form rulemaking, this fee has been reduced to $200. This revision was made in response to comments that fees in the proposed rule-

making would negatively impact small businesses and agricultural operations, and the fact that the types of permit applications submitted to the Department by small businesses and agricultural operations are generally less complex and require less effort to process than applications submitted by larger businesses and other applicants. Similarly, inspections of agricultural operations and facilities operated by small businesses to evaluate compliance with permit terms and conditions typically require less time compared with facilities operated by larger businesses or other applicants.

Subsection (f) addresses fees associated with amendments of individual NPDES permits, and includes new, lower fees for minor amendments to individual NPDES permits for single residence sewage treatment plants (SRSTP) and small flow treatment facilities (SFTF), as the current fee for minor amendments to these permits exceeds or is not in proportion with the fees for SRSTP and SFTF permit applications for new permits. This subsection also establishes that major amendment fees are the same as the annual fees for corresponding facility or activity categories in § 92a.62. Currently, major amendment fees are the same as permit reissuance fees, but with the elimination of reissuance fees from § 92a.26(b) (except for mining activity permits), major amendment fees are set equivalent to annual fees for the corresponding facility or activity categories. No change is made to this subsection from the proposed rulemaking to this final-form rulemaking.

As part of the proposed rulemaking, the Board proposed to modify subsection (g) by removing the cap of $2,500 on NPDES general permit NOI fees and specifying that NOI fees cannot exceed application fees and annual fees associated with individual permits for the equivalent activity. Upon review of this provision in the proposed rulemaking, the Board determined that this change would likely cause confusion and present difficulties in implementation because of the differences in fee structures for individual and general permits. To simplify this subsection, the Board is reverting this final-form rulemaking to the original language, as promulgated in 2010, whereby NOI fees are capped at a specific dollar amount, but the Board is increasing the cap from $2,500 to $5,000. This change does not, in itself, increase any NPDES general permit NOI fees. NOI fees are established as part of a general permit. Any changes to NPDES general permit NOI fees are subject to public comment as required under § 92a.86 (relating to notice of issuance or final action on a permit), and will be considered as NPDES general permits come up for renewal. This subsection also requires payment of the annual increment of the NOI fee to obtain coverage under a general permit when the general permit allows payment of the NOI fee in annual increments; this provision is unchanged from the proposed to this final-form rulemaking. For example, if an NOI fee is $1,000 and the general permit allows annual incremental payments of $200 over a 5-year term of the general permit, a person seeking coverage under the general permit would be required to submit a payment of $200 with the NOI.

Subsection (f) in the proposed rulemaking provided authorization to the Department to adjust NPDES permit application fees every 2 years based on the United States Bureau of Labor Statistics ECI as necessary to meet the costs of administering the Statewide Clean Water Program. While the Department maintains it has statutory authority for this provision, the Board has elected to remove this subsection from this final-form rulemaking.

Subsection (i) of this final-form rulemaking (subsection (h) of the proposed rulemaking) has been amended from the proposed rulemaking, similar to § 91.22(d) of this final-form rulemaking, to provide the opportunity for financially distressed municipalities, as determined by DCED under the Municipalities Financial Recovery Act, to be exempted from NPDES permit application fees.

§ 92a.32. Stormwater discharges

Subsection (b) codifies and clarifies the existing process of how to submit a "No Exposure Certification" application and fee, wherein an applicant is required to submit the appropriate permit application or NOI, including the appropriate application or NOI fee, and a "No Exposure Certification" on forms available from the Department at least once every 5 years. No change is made to this subsection from the proposed rulemaking to this final-form rulemaking.

Subsection (c) codifies and clarifies the existing process for how to submit a waiver from NPDES permit requirements for small MS4 operators, wherein an applicant is required to submit to the Department the appropriate permit application or NOI, the appropriate permit application or NOI fee, and an application for the waiver on forms available from the Department at least once every 5 years. No change is made to this subsection from the proposed rulemaking to this final-form rulemaking.

By specifying what information applicants must include in permit applications and NOIs, the amendments to § 92a.32 aim to support more timely permit decisions by improving the quality of applications and NOIs submitted to the Department. Specifically, this final-form rulemaking clarifies which forms must be completed and which fees must be submitted by those seeking No Exposure Certification and waivers for MS4 NPDES permits.

§ 92a.62. NPDES annual fees

Similar to § 92a.26(a), subsection (a) is amended: to require payment of NPDES permit annual fees to the "Commonwealth of Pennsylvania" rather than the "Clean Water Fund" consistent with the Commonwealth's fiscal management policies; and to clarify that for fees based on the annual average design flow of a facility, the design flows of all discharges from the facility are totaled. This subsection is amended to change the due date of the annual fee for individual NPDES permits, such that the annual fee is the effective date of the last permit issuance or reissuance for permits issued before this final-form rulemaking becomes effective and is the effective date of the initial permit for permits issued after this final-form rulemaking becomes effective. For example, if an individual NPDES permit was last reissued with an effective date of June 1, 2017, as of the effective date of this final-form rulemaking, the annual fee for the permit would be due each year on June 1, regardless of the effective date of future reissued permits. If an individual NPDES permit is issued on September 1, 2021, the annual fee for the permit would be due each year on September 1. In conjunction with this amendment, and as previously discussed for § 92a.26(b), permit reissuance fees are deleted for all NPDES permits that had annual fees. This subsection currently provides that annual fees for NPDES permits are due on the anniversary of the effective date of the permit, a date which often changes each permit renewal cycle. The amendment to this subsection should ease the administrative burden on permittees and on the Department by setting one annual fee due date for the life of each individual NPDES permit.

The amendment to this subsection also makes reissuance fees unnecessary for most individual NPDES permits. No change is made to this subsection from proposed to this final-form rulemaking.

Subsection (b) is amended to combine current subsections (b)—(d), which address annual fees for facilities with individual NPDES permits. The facility and activity categories associated with NPDES permit annual fees remain the same as the existing regulation, except that a new categories for "pesticides" and "stormwater associated with construction activities" have been added. The amended annual fees are based on the typical complexity and amount of effort necessary for the Department to review NPDES permit applications for each category of facility or activity and the resources the Department dedicates to ongoing inspections and compliance monitoring of permitted facilities and activities. Subsections (c) and (d) are reserved.

The NPDES permit annual fees for some categories of facilities in subsection (b) of this final-form rulemaking have been amended from the proposed rulemaking in response to concerns from small businesses and agricultural operations. Annual fees have decreased for the following categories of facilities:

- Small Flow Treatment Facility—from $500 to $250;
- Minor Sewage Facility < 0.05 MGD—from $750 to $500;
- Minor Industrial Waste Facility not covered by ELG—from $2,500 to $1,500;
- Minor Industrial Waste Facility covered by ELG—from $3,750 to $3,000;
- Industrial Stormwater—from $2,500 to $1,500; and
- CAFO—from $1,500 to $500.

These revisions were made in response to comments that fees in the proposed rulemaking would negatively impact small businesses and agricultural operations, and the fact that the types of permit applications submitted to the Department by small businesses and agricultural operations are generally less complex and require less effort to process than applications submitted by larger businesses and other applicants. Similarly, inspections of agricultural operations and facilities operated by small businesses to evaluate compliance with permit terms and conditions typically require less time compared with facilities operated by larger businesses or other applicants.

Subsection (c) in the proposed rulemaking provided authorization to the Department to adjust NPDES permit annual fees every 2 years based on the United States Bureau of Labor Statistics ECI as necessary to meet the costs of administering the Statewide Clean Water Program. While the Department maintains it has statutory authority for this provision, the Board has elected to delete this subsection from this final-form rulemaking.

Subsection (f) of this final-form rulemaking (subsection (e) of the proposed rulemaking) has been amended from the proposed rulemaking, similar to § 91.22(d) and § 92a.26(g) of this final-form rulemaking, to provide the opportunity for financially distressed municipalities, as determined by DCED under the Municipalities Financial Recovery Act, to be exempted from NPDES permit annual fees.

F. *Summary of Major Comments and Responses on the Proposed Rulemaking*

The Board received comments and questions from 157 different individuals and organizations during the comment period, including testimony from one organization at a public hearing held on May 1, 2019. Comments and questions received included collective comments from 2 groups: 69 state legislators and 55 individuals representing the agricultural sector. The following summarizes the overarching comments and the Board's actions in response. A comment and response document has been developed for this final-form rulemaking that provides a full account of public comments and the Department's responses.

Legislative commenters believe that the draft rulemaking deviates from the legislative intent of the CSL and the regulatory authority granted to the Board to allow for reasonable fees for applications filed and permits issued. They state it was never the intent of the legislature to fund a sizeable portion of the Clean Water Program from these fees.

The Board disagrees. The General Assembly gave the Board the power and duty to adopt regulations to, among other things, implement the declaration of policy set forth in section 4 of the CSL. 35 P.S. § 691.5(a). The General Assembly expressly stated that the ". . .objective of the [CSL] [is] not only to prevent further pollution of the waters of the Commonwealth, but also to reclaim and restore. . .every stream in Pennsylvania. . . ." 35 P.S. § 691.4(3). Moreover, the General Assembly found that "[t]he prevention and elimination of water pollution is recognized as being directly related to the economic future of the Commonwealth." 35 P.S. § 691.4(4). The fee regulations fit directly within the statutory grant of authority given to the Board and Department. Without adequate financial resources, the Department's mission is at risk and the requirements of the CSL cannot be fulfilled. The legislature provided the Department the authority to charge "reasonable filing fees for applications filed *and for permits issued*." 35 P.S. § 691.6 (Emphasis added). The plain language of the statute authorizes the Department to charge fees designed to cover the costs associated with 1) applications for permits and 2) permits that have been issued. This authorization allows the Department to meet its statutory obligations in relation to permits issued, including, but not limited to, inspection and enforcement activities.

The Board believes that the interpretation advanced by the commenters would relegate the Department to an administrator of permits without any responsibility to monitor compliance or take enforcement action. That was not the intent of General Assembly when the CSL was passed. Section 5 of the CSL gives the Department explicit statutory duties and authority to modify, suspend, limit, renew or revoke permits as well as act on complaints, conduct inspections and issue orders. 35 P.S. § 691.5. The General Assembly intended for the CSL to be a comprehensive statute to address water pollution throughout this Commonwealth. Many of those activities go beyond the mere issuance of permits and includes enforcement, monitoring activities and the abatement of nuisances after permits are issued.

The Board promulgated annual fees for NPDES permits for the first time under Chapter 92a in 2010. 40 Pa.B. 5767. These annual fees were established under section 6 of the CSL (that is, fees for permits issued), and support the activities of the Department to uphold its other responsibilities under the CSL related to permits issued and not solely for the processing of permit applications filed. Additionally, the Administrative Code of 1929 (71 P.S. § 510-20) authorizes the Board to promulgate rules and regulations necessary for the proper performance of the work of the Department.

The Board has not modified this final-form rulemaking based on comments of this nature.

Some legislative commenters say that the amount of the fee increases is inconsistent with the legislative directive that fees be reasonable and will impose a hardship particularly on small businesses and farmers.

The Board believes that the fees are reasonable and similar to the fees charged by other state environmental agencies for equivalent permits. The Regulatory Analysis Form (RAF) and comment and response document for this final-form rulemaking provide comparisons that show most of this Commonwealth's fees under Chapters 91 and 92a will continue to be less than those of neighboring and comparable states for similar permits. Nevertheless, the Board understands the need to balance concerns of the regulated community with the need for a robust program to protect water resources within this Commonwealth. Accordingly, this final-form rulemaking has reduced fees from the proposed rulemaking for categories of WQM and NPDES permits that include or are likely to include large numbers of small businesses and farmers. The changes in the WQM and NPDES permit fee schedules for this final-form rulemaking will result in a maximum possible increase in annual revenue of $6.5 million, as compared with the $8 million maximum possible increase in the proposed rulemaking.

Legislative commenters say that if the Department wants the source and method of their funding to be changed, they must present to the Legislature their proposal to change the statute. Until then, the program must abide by the current fee structure designed by the statute.

The Board disagrees. The assertion that the legislature only intended the fees authorized by section 6 of the CSL to cover a fraction of the program's costs is unsupported. The statutory language is not limited to establishing fees to cover the cost of processing permit applications alone. The General Assembly gave the Department comprehensive authority to protect public health and the environment under the CSL. This authority not only includes the issuance of permits, but monitoring compliance, and enforcement of those permit limits. Nevertheless, under the proposed rulemaking, fees would have continued to constitute only a fraction of the program's costs. Under the proposal, fees would have contributed approximately 39% of the program's needs, up from approximately 18%. With the permit fee decreases made as part of this final-form rulemaking that fraction from the fees will decrease.

Some legislative commenters believe the fee increase amounts to a tax.

The Board disagrees. The courts of this Commonwealth describe taxes as "revenue-producing measures authorized under the taxing power of the government" and fees as "regulatory measures intended to cover the cost of administering a regulatory scheme authorized under the police power of the government." *City of Philadelphia v. Southeastern Pennsylvania Transp. Auth.*, 303 A.2d 247, 251 (1973). Based on Pennsylvania Supreme Court case law, this rulemaking is raising fees to cover the costs of a regulatory program and not revenue producing measures that go into the General Fund.

The Independent Regulatory Review Commission (IRRC) asks the Board to work with all parties with an interest in this final-form rulemaking, particularly the Committee and members of the Legislature, to create a regulatory environment that is consistent with the intent of the General Assembly, fair to the regulated community and protective of this Commonwealth's natural resources.

The Board appreciates this comment and has attempted to resolve concerns of those having an interest in this final-form rulemaking. The Board understands concerns about the impact of increased permit fees on the regulated community. The fee increases in this final-form rulemaking aim to ensure that the Department has sufficient resources to protect the health and safety of the public, to protect this Commonwealth's water resources, and to meet other State and Federal obligations while fairly and equitably distributing the cost to administer the Clean Water Program among the regulated community.

IRRC is concerned that instead of fulfilling government's role of supporting local businesses and communities in this Commonwealth, this regulation would hurt many of those who can least afford it.

The Board reduced fees in this final-form rulemaking for categories of permits that include or are likely to include large numbers of small businesses and farmers. However, without the fee increases in this final-form rulemaking, the Department will be less able to issue businesses in this Commonwealth timely permits that are required to conduct their business in a manner protective of public health and the environment. The lack of adequate resources will also reduce enforcement and monitoring activities that may result in more polluted waterways thereby impacting the quality of life in this Commonwealth, which may make this Commonwealth a less attractive place to start and run a business or raise a family. Finally, insufficient resources may result in the Department losing Federal approval to issue certain permits, which would likely also result in longer delays for business operations.

Commenters say that the Department does not have the statutory authority to automatically adjust fees every 2 years and doing so would circumvent the public participation process for fee increases.

While the Department maintains it has statutory authority for the provision in the proposed rulemaking to automatically adjust fees to account for inflation, the Board has elected to remove this provision from this final-form rulemaking.

Some commenters are concerned that the fiscal impact to municipalities would be significant with local governments bearing an estimated $2 million of the $8 million of new fees.

The Board has established an additional exemption to fees under Chapters 91 and 92a in this final-form rulemaking. Municipalities that are designated as financially distressed by DCED under the Municipalities Financial Recovery Act (53 P.S. §§ 11701.101—11701.712), may be exempted from fees. Municipalities that provide evidence of this current designation will be exempted.

One commenter says that as it relates to the sufficiency of existing resources and staff, it is not clear how the Board arrived at its desired increase of staff complement that would be hired with the finalization of this proposal.

The Board notes that the workload analysis that was completed by the Department to justify the proposed fee increases was included as an attachment to the RAF submitted for the proposed rulemaking. Following completion of the workload analysis, an evaluation of the fiscal health of the Clean Water Fund has revealed that it is unlikely that the Department will be able to support all

of the positions necessary to fulfill all of the Clean Water Program's responsibilities. In other words, the new revenues under this final-form rulemaking will primarily go toward ensuring the Department is able to maintain its current level of activities and staffing. The Department has and will continue to investigate and implement procedures to streamline reviews when authorized under State and Federal law.

Another commenter believes that before expanding an already inefficient system, any changes to the administration of the NPDES and WQM programs should instead prioritize efficiency gains within the existing program framework.

The Board finds that the Department's workload analysis determined that the Department has most of the permit application reviewers that it needs to effectively and timely review permit applications but is lacking primarily in other positions such as inspectors, compliance specialists and biologists. As a result of the Department's Permit Decision Guarantee/Permit Review Process policy, the development of standard operating procedures, and other streamlining measures, the Department has improved its permit review times for NPDES and WQM permits over the past decade.

G. *Benefits, Costs and Compliance*

Benefits

The fee increases proposed in this final-form rulemaking are necessary for the Department to administer the WQM and NPDES programs in Chapters 91 and 92a, respectively, and to implement the CSL as well as the Federal NPDES program delegated to the Department under the Clean Water Act. These programs are essential to the compelling public interest of preventing and eliminating pollution of the waters of this Commonwealth, promoting both public health and economic benefits.

WQM and NPDES permits help lower rates of acute and chronic illnesses in citizens by reducing the occurrence of pathogens, nutrients and other contaminants in the waterways of this Commonwealth. Citizens may come into contact with these pollutants through drinking improperly treated water, recreational activities or consuming tainted food sources. High levels of some pathogens like *E. coli* can cause illness if accidentally consumed during recreational activities, by eating contaminated food or from drinking improperly treated water. Nutrient pollution can facilitate the occurrence of harmful algal blooms, which may produce toxic compounds that harm recreational water users and render drinking water sources unusable during the duration of a bloom. Nutrient pollution is also known to impact downstream waters such as the Chesapeake Bay. Other contaminants like heavy metals can accrue in fish tissue and cause sickness in people who consume the contaminated fish. This list of examples is not exhaustive of the types and causes of illnesses that can be associated with polluted waters. Preservation of public health is a standalone benefit of environmental regulation, but it also provides economic benefits. While it is difficult to assign a specific monetary value to the prevention of acute and long-term illnesses or disease by improving and protecting water quality, healthier citizens are able to work, are more productive and live longer lives, all of which provide positive economic effects.

This Commonwealth derives other economic benefits from the proper administration of the WQM and NPDES programs, including reduced costs to treat drinking water, increased property values, job creation, increased fishery resources and recreation, and enhanced aquatic habitat available to support the diverse species that depend on clean water. Additionally, healthy watersheds help to avoid expensive restoration activities, reduce vulnerability to natural disasters and maintain natural ecosystems that provide water treatment at far lower costs than can be achieved through human-engineered services. For more information about the economic benefits of effectively managing water resources, see the EPA document, "The Economic Benefits of Protecting Healthy Watersheds," available on EPA's "Benefits of Healthy Watersheds" web site at www.epa.gov/hwp/benefits-healthy-watersheds.

The WQM and NPDES permit fees in this final-form rulemaking will provide the Department with resources to effectively administer the Clean Water Program in service of protecting the quality of water resources within this Commonwealth without any increases in the appropriation of general tax revenue to the Department. The Board acknowledges that the fees in this final-form rulemaking impose costs on some regulated entities, but the Board also notes that the Department's effective administration of the Clean Water Program comprises an important part of the social contract that regulated entities rely on to operate in a way that minimizes negative impacts to public health and the environment. The Board also notes that instead of collecting a large up-front fee to support the Department's water pollution control efforts, this final-form rulemaking is structured to fairly spread WQM and NPDES permit fees among permit applications and annual fees, as applicable, to ease the burden on the regulated community. The Board also underscores that, despite the fee increases in this final-form rulemaking, the Commonwealth's WQM and NPDES permit fees will still be less than the fees in many comparable states for similar permits.

The administration of the Clean Water Program involves many activities including permit application reviews, inspections, enforcement, surface water assessments and related activities such as the development and implementation of Federally required TMDLs.

Under the Federal Clean Water Act, the Department is required to develop and maintain this Commonwealth's water quality standards. 33 U.S.C.A. § 1313. Water quality standards are established to protect human health, aquatic life and to ensure protection of water uses as defined in Chapter 93 (relating to water quality standards) including water supply and recreational uses. Department-issued permits must ensure adherence to water quality standards and to State and Federal technology-based standards. Department-issued WQM permits assure that appropriate engineering standards are applied to prevent pollution to waters of this Commonwealth.

As part of its grant agreement under section 106 of the Clean Water Act (33 U.S.C.A. § 1256) the EPA requires the Department to monitor and assess surface waters to determine if the waters are meeting their designated uses. The Department performs this monitoring and assessment in a variety of ways including biological sampling, chemical sampling and evaluation of aquatic habitats. Monitoring and assessment of this Commonwealth's surface waters helps the Department assure that this Commonwealth has appropriate water quality standards in place and has issued effective permits to protect public health and the environment. Water quality monitoring and assessment are foundational components of the water resource management programs implemented by the Department.

Other benefits associated with this final-form rulemaking include:

• The opportunity to fill existing vacant staff positions and additional resources to provide the regulated community with more timely permit application reviews, which will be beneficial to owners and operators of new facilities desiring permits as expeditiously as possible.

• The opportunity to fill existing vacant staff positions and additional resources to support more thorough reviews of impacts proposed and existing permitted facilities and activities may have on public health and the environment, and a greater presence of Department staff in the field to conduct inspections and compliance monitoring of permitted facilities and activities. These Department services benefit the public by providing a greater level of protection for waters of this Commonwealth. The regulated community benefits from these Department services through enhanced compliance assistance before enforcement is considered. The Department prefers to work with the regulated community to promote compliance. Compliance assistance can reduce expenses for permittees while ensuring adequate protection of human health and the environment.

• The opportunity to fill existing vacant staff positions and additional resources to evaluate existing programs, policies, guidance and regulation to assess what is and what is not working well for the public, the regulated community and the Department, and to make necessary changes more expeditiously. The Department is aware of some areas of the Clean Water Program that could be improved or enhanced to, for example, make permit processes less onerous and save applicants time and money. A staffing increase in the Department's BCW is necessary to complete this work.

• Increased revenue to support the Department's efforts to expand electronic solutions to improve business efficiency.

The Department believes that these benefits will result in cost savings to the regulated community although these savings are difficult to quantify.

Compliance costs

The operators of approximately 4,000 facilities in this Commonwealth with individual NPDES permits will be affected by this final-form rulemaking. Certain categories of facilities will be subject to little or no fee increase, while other categories of facilities would be subject to more significant increases, based on the nature and complexity of these facilities and the permit applications they submit to the Department.

On average, between 500 and 600 owners and operators of water pollution control facilities (such as, persons proposing to construct or modify sewage treatment facilities, sewer lines or wastewater pump stations) apply to the Department each year for a WQM permit; these persons will be subject to WQM permit application fee increases under this final-form rulemaking.

The total increase in WQM and NPDES permit fees for these facilities is anticipated to be approximately $4.5 million in the first year following the effective date of this final-form rulemaking. Persons applying for new NPDES and WQM permits will be subject to the amended fees immediately. Persons with existing NPDES permits will not be subject to the amended fees until an annual fee is due. Persons with existing WQM permits will not be subject to the amended fees unless an amendment, transfer or renewal of the WQM permit is desired.

Not included in the preceding cost estimates are costs associated with coverage under general WQM and NPDES permits. The Department could propose increased NOI fees for general permits in the future: for WQM general permits, to a level not to exceed the application fee for an equivalent WQM individual permit; and, for NPDES general permits, not to exceed $5,000. If the Department were to increase NOI fees for general WQM and NPDES permits, these fees could affect up to 5,700 additional facilities with general permit coverage and collectively cost the owners or operators of these facilities up to an additional $2 million annually. Any increase in NOI fees for general NPDES or WQM permits would be proposed at the time each general permit is drafted for renewal. Each draft general permit is published in the *Pennsylvania Bulletin* for public comment, as required by § 91.27 (relating to general water quality management permit) for WQM general permits and § 92a.84 (relating to public notice of general permits) for NPDES general permits.

While the costs to comply with this final-form rulemaking could total up to $6.5 million annually across 10,300 NPDES-permitted and WQM-permitted facilities, the Board expects that the net costs will be much lower considering the benefits described previously and the fact that NOI fees for every general permit may not increase to the maximum amount allowable under this final-form rulemaking.

Compliance assistance plan

The Department will develop and post to its web site information describing changes to the WQM and NPDES fee schedules and include information on these changes within annual fee invoices mailed to permittees.

Paperwork requirements

The final-form amendments to Chapters 91 and 92a clarify existing processes but do not add to or change the existing paperwork requirements for the submission of WQM and NPDES permit applications and NOIs or the submission of annual fee payments to the Department. It is noted that the Department has launched an electronic payment system for annual fees, which reduces paperwork.

H. *Pollution Prevention* (if applicable)

The Federal 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. This regulation has incorporated the following pollution prevention incentives:

Certain sectors of facilities may be able to avoid paying annual fees when pollution prevention measures are employed. For example, industrial sites that are required to apply for and obtain NPDES permits for stormwater discharges associated with industrial activity may qualify for a No Exposure Certification approval instead of a permit, if most products and materials are stored in storm-resistant shelters.

I. *Sunset Review*

The Board is not establishing a sunset date for these regulations, because 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.

J. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 12, 2019, the Department submitted a copy of the notice of proposed rulemaking, published at 49 Pa.B. 1518 (March 30, 2019) and a corrective amendment at 49 Pa.B. 1665 (April 6, 2019), to IRRC and the Chairpersons of the House and Senate Environmental Resources and Energy Committees for review and comment.

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

On May 4, 2021, the House Environmental Resources and Energy Committee issued a disapproval notification of this final-form rulemaking, triggering a 14-day review period after IRRC consideration of the rulemaking under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)). Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 20, 2021, and approved the final-form rulemaking. The House Environmental Resources and Energy Committee did not take action during the 14-day review period after receiving IRRC's order on May 20, 2021. Therefore, under section 5.1(j.2) of the Regulatory Review Act, on June 3, 2021, the final-form rulemaking was deemed approved by the House and Senate Committees and this final-form regulation may be promulgated.

K. *Findings of the Board*

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), known as the Commonwealth Documents Law and regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law, and all comments were considered.

(3) This final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 49 Pa.B. 1518 and 49 Pa.B. 1665.

(4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in section C of this order.

L. *Order of the Board*

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

(a) The regulations of the Department, 25 Pa. Code Chapters 91 and 92a, are amended by amending §§ 91.1, 91.22, 91.27, 91.36, 91.52, 92a.26, 92a.32 and 92a.62 to read as set forth in Annex A.

(b) The Chairperson of the Board shall submit this final-form regulation 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 final-form regulation to IRRC and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act.

(d) The Chairperson of the Board shall certify this final-form regulation and deposit it with the Legislative Reference Bureau, as required by law.

(e) This final-form regulation shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

PATRICK McDONNELL,
Chairperson

(*Editor's Note*: See 51 Pa.B. 3210 (June 5, 2021) for IRRC's approval order.)

Fiscal Note: Fiscal Note 7-533 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 91. GENERAL PROVISIONS

GENERAL

§ 91.1. Definitions.

* * * * *

CAFO—Concentrated animal feeding operation—An agricultural operation that meets the criteria established by the Department in § 92a.2 (relating to definitions).

* * * * *

General water quality management permit or *general permit*—A water quality management permit that is issued for a clearly described category of wastewater treatment facilities, which are substantially similar in nature.

Major facility—The term as defined in § 92a.2.

Manure—

(i) Animal excrement, including poultry litter, which is produced at an agricultural operation.

(ii) The term includes materials such as bedding and raw materials which are commingled with that excrement.

* * * * *

Manure storage facility—A permanent structure or pond, a portion of a structure or pond, or a group of structures or ponds at one agricultural operation, utilized for the purpose of containing manure or agricultural process wastewater. This includes concrete, metal or other fabricated tanks and underbuilding structures, as well as earthen and synthetically-lined manure storage ponds.

Minor facility—The term as defined in § 92a.2.

NOI—Notice of Intent—A complete form submitted as a request for general water quality management permit coverage.

* * * * *

Single residence sewage treatment plant—A system of piping, tanks or other facilities serving a single family residence located on a single family residential lot which collects, disposes and treats solely direct or indirect sewage discharges from the residences into waters of this Commonwealth.

Small flow treatment facility—The term as defined in § 92a.2.

Stormwater—Runoff from precipitation, snow melt runoff and surface runoff and drainage.

* * * * *

APPLICATIONS AND PERMITS

§ 91.22. Fees.

(a) Applications for new individual water quality management permits, reissuance of individual water quality management permits, and requests for permit amendments and transfers shall be accompanied by a fee payable to "Commonwealth of Pennsylvania" in the amounts specified as follows.

Category	*Application Type*	*Fee*
Joint Pesticides Permit	New and Reissuance	$250
	Amendment	$100
	Transfer	$50
Major Sewage Treatment Facility	New	$10,000
	Amendment	$2,000
	Transfer	$250
Major Industrial Waste Treatment Facility	New	$15,000
	Amendment	$2,000
	Transfer	$500
Minor and Non-NPDES Sewage Treatment Facility	New	$5,000
	Amendment	$500
	Transfer	$250
Minor and Non-NPDES Industrial Waste Treatment Facility	New	$7,500
	Amendment	$500
	Transfer	$250
Single Residence Sewage Treatment Plant	New	$200
	Amendment	$100
	Transfer	$50
Small Flow Treatment Facility	New	$1,000
	Amendment	$200
	Transfer	$100
Sewer Extensions	New	$2,500
	Amendment	$500
	Transfer	$250
Pump Station	New	$2,500
	Amendment	$500
	Transfer	$250
Land Application and Reuse of Sewage	New and Reissuance	$5,000
	Amendment	$1,000
	Transfer	$250
Land Application and Reuse of Industrial Waste	New and Reissuance	$10,000
	Amendment	$2,000
	Transfer	$250
Manure Storage and Wastewater Impoundment	New	$1,000
	Amendment	$500
	Transfer	$250

(b) NOI fees for coverage under a general water quality management permit, including fees for amendments to and transfers of general permit coverage, shall be made payable to the "Commonwealth of Pennsylvania." The fees for a general permit in § 91.27(b)(1) (relating to general water quality management permit) will be established in the general permit. NOI fees may not exceed the individual permit application fees in subsection (a) for the equivalent category and application type.

(c) The Department will review the adequacy of the fees established in this section every 3 years and provide a written report to the EQB. The report will identify disparities between the amount of program income generated by the fees and the costs to administer the program, and contain recommendations to increase fees to eliminate any disparities, including recommendations for regulatory amendments to increase program fees.

(d) Any Federal or Commonwealth agency or independent Commonwealth commission that provides funding to the Department for the implementation of the WQM program through terms and conditions of a mutual agreement and any municipality that is currently designated as a financially distressed municipality by the Department of Community and Economic Development under the Municipalities Financial Recovery Act (53 P.S. §§ 11701.101—11701.712) may be exempt from the fees in this section.

§ 91.27. General water quality management permit.

* * * * *

(c) *Denial of coverage*. The Department may deny coverage under the general permit when one or more of the following conditions exist:

(1) The NOI is not complete or timely.

(2) The applicant has not obtained permits required by Chapter 92a (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance) when required.

* * * * *

MANAGEMENT OF OTHER WASTES

§ 91.36. Pollution control and prevention at agricultural operations.

* * * * *

(b) *Land application of animal manure and agricultural process wastewater; setbacks and buffers*.

(1) The land application of animal manures and agricultural process wastewater requires a permit or approval from the Department unless the operator can demonstrate that the land application meets one of the following:

(i) The land application follows current standards for development and implementation of a plan to manage nutrients for water quality protection, including soil and manure testing and calculation of proper levels and methods of nitrogen and phosphorus application. The Manure Management Manual contains current standards for development and implementation of a plan to manage nutrients for water quality protection which can be used to comply with the requirements in paragraph (1).

(ii) For CAOs, the land application is in accordance with an approved nutrient management plan under Chapter 83, Subchapter D.

(iii) For CAFOs, the land application is in accordance with a CAFO permit as described in § 92a.29 (relating to CAFOs).

(2) Unless more stringent requirements are established by statute or regulation, the following agricultural operations may not mechanically land apply manure within 100 feet of surface water, unless a vegetated buffer of at least 35 feet in width is used, to prevent manure runoff into surface water:

(i) A CAO.

(ii) An agricultural operation receiving manure from a CAO directly, or indirectly through a broker or other person.

(iii) An agricultural operation receiving manure from a CAFO directly, or indirectly through a broker or other person.

(3) CAFOs shall meet the setback requirements in § 92a.29(e)(1)(i).

* * * * *

UNDERGROUND DISPOSAL

§ 91.52. Procedural requirements for underground disposal.

A permit issued under § 91.51 (relating to potential pollution resulting from underground disposal) shall be issued in accordance with the requirements of Chapter 92a (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance) when applicable.

CHAPTER 92a. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMITTING, MONITORING AND COMPLIANCE

Subchapter B. PERMIT APPLICATION AND SPECIAL NPDES PROGRAM REQUIREMENTS

§ 92a.26. Application fees.

(a) NPDES application fees are payable to the Commonwealth of Pennsylvania according to the fee schedule set forth in this section. All flows listed in this section are total annual average design flows for all discharges at a facility in million gallons per day (MGD).

(b) Applications fees for new individual NPDES permits are as follows.

Category	*Application Fee*
Single Residence Sewage Treatment Plant	$200
Small Flow Treatment Facility	$500
Minor Sewage Facility < 0.05 MGD	$1,000
Minor Sewage Facility >= 0.05 MGD and < 1.0 MGD	$2,000
Minor Sewage Facility with CSO	$5,000
Major Sewage Facility >= 1.0 MGD and < 5.0 MGD	$7,500

Category	*Application Fee*
Major Sewage Facility >= 5.0 MGD	$10,000
Major Sewage Facility with CSO	$15,000
Minor Industrial Waste Facility not covered by ELG	$3,000
Minor Industrial Waste Facility covered by ELG	$6,000
Major Industrial Waste Facility < 250 MGD	$15,000
Major Industrial Waste Facility >= 250 MGD	$100,000
Industrial Stormwater	$3,000
CAFO	$500
MS4	$5,000
CAAP	$3,000
Pesticides	$3,000
Mining Activity	$1,000

In addition, the application fee for reissuance of an individual NPDES permit associated with a mining activity shall be $500.

(c) (Reserved).

(d) (Reserved).

(e) Application fees for transfers of individual permits are:

Single residence sewage treatment plant	$50
Small flow treatment facility	$100
All other sewage facilities and CAFOs	$200
Industrial waste, Industrial stormwater, MS4 and CAAP	$500

(f) Application fees for amendments to individual permits are:

Amendment initiated by Department	No charge
Minor Amendment for single residence sewage treatment plant	$50
Minor Amendment for small flow treatment facility	$100
Minor amendment for all other facilities	$200
Major amendment	Same as annual fee established in § 92a.62 (relating to annual fees)

(g) NOI fees for coverage under a general permit under § 92a.23 (relating to NOI for coverage under an NPDES general permit), including fees for amendments to or transfers of general permit coverage, will be established in the general permit. NOI fees may not exceed $5,000, except as provided in Chapter 102 (relating to erosion and sediment control). An eligible person shall submit to the Department the applicable NOI fee before the Department approves coverage under the general permit for that person. If the general permit allows payment of the NOI fee in annual increments, the eligible person shall, if required by the Department, submit the initial increment to the Department with the NOI before the Department approves coverage under the general permit.

(h) The Department will review the adequacy of the fees established in this section at least once every 3 years and provide a written report to the EQB. The report will identify any disparity between the amount of program income generated by the fees and the costs to administer these programs, and contain recommendations to increase fees to eliminate the disparity, including recommendations for regulatory amendments to increase program fees.

(i) Any Federal or State agency or independent State commission that provides funding to the Department for the implementation of the NPDES program through terms and conditions of a mutual agreement and any municipality that is currently designated as a financially distressed municipality by the Department of Community and Economic Development under the Municipalities Financial Recovery Act (53 P.S. §§ 11701.101—11701.712) may be exempt from the fees in this section.

§ 92a.32. Stormwater discharges.

(a) The provisions of 40 CFR 122.26(a), (b), (c)(1), (d), (e)(1), (3)—(9), (f) and (g) (relating to storm water discharges (applicable to State NPDES programs, see § 123.25)) and 122.30—122.37 are incorporated by reference.

(b) *No exposure stormwater discharges*. Discharges composed entirely of stormwater are not stormwater discharges associated with industrial activity if there is "no exposure" of industrial materials and activities to stormwater and the discharger satisfies the conditions in 40 CFR 122.26(g). A facility or activity with no stormwater discharges associated with industrial activity may qualify for a conditional exclusion from a permit, provided that the facility or activity does not discharge to a surface water classified as a High Quality Water or an Exceptional Value Water under Chapter 93 (relating to water quality standards). To qualify for the conditional exclusion from a permit, the responsible person shall complete, sign and submit to the Department the appropriate permit application or NOI, including the appropriate application or NOI fee, and a "No Exposure Certification" on forms available from the Department at least once every 5 years.

(c) *Municipal separate storm sewer systems*. The operator of a discharge from a large, medium or small municipal separate storm sewer shall submit in its permit application or NOI the information required to be submitted under 40 CFR Part 122 (relating to EPA administered permit programs: the National Pollutant Discharge Elimination System). Permits for discharges from municipal

separate storm sewer systems are not eligible for a ”no exposure” conditional exclusion from a permit under subsection (b). The operator of a discharge from a small MS4 may seek a waiver from NPDES permit requirements under 40 CFR 122.32(c) (relating to as an operator of a small MS4, am I regulated under the NPDES storm water program?). To request this waiver, the operator of the small MS4 shall complete, sign and submit to the Department the appropriate permit application or NOI, the appropriate permit application or NOI fee and an application for the waiver on forms available from the Department at least once every 5 years.

* * * * *

Subchapter D. MONITORING AND ANNUAL FEES

§ 92a.62. Annual fees.

(a) Permittees shall pay an annual fee in the amount indicated in the following schedule to the Commonwealth of Pennsylvania. The annual fee for permits issued before August 28, 2021, is due on each anniversary of the effective date of the last permit issuance or reissuance until the Department terminates the permit. The annual fee for permits issued for the first time after August 28, 2021, is due on each anniversary of the effective date of the initial permit until the Department terminates the permit. The flows listed in this section are total annual average design flows for all discharges at a facility in million gallons per day (MGD).

(b) Annual fees for individual NPDES permits are as follows:

Category	*Annual Fee*
Single Residence Sewage Treatment Plant	$100
Small Flow Treatment Facility	$250
Minor Sewage Facility < 0.05 MGD	$500
Minor Sewage Facility ≥= 0.05 MGD and < 1.0 MGD	$1,000
Minor Sewage Facility with CSO	$2,500
Major Sewage Facility ≥= 1.0 MGD and < 5.0 MGD	$3,750
Major Sewage Facility ≥ 5.0 MGD	$5,000
Major Sewage Facility with CSO	$7,500
Minor Industrial Waste Facility not covered by ELG	$1,500
Minor Industrial Waste Facility covered by ELG	$3,000
Major Industrial Waste Facility < 250 MGD	$7,500
Major Industrial Waste Facility ≥= 250 MGD	$50,000
Industrial Stormwater	$1,500
CAFO	$500
MS4	$2,500
CAAP	$1,500
Pesticides	$1,500
Mining Activity	$0
Stormwater Associated with Construction Activities	$500

(c) (Reserved).

(d) (Reserved).

(e) The Department will review the adequacy of the fees established in this section at least once every 3 years and provide a written report to the EQB. The report will identify any disparity between the amount of program income generated by the fees and the costs to administer these programs, and contain recommendations to increase fees to eliminate the disparity, including recommendations for regulatory amendments to increase program fees.

(f) Any Federal or State agency or independent state commission that provides funding to the Department for the implementation of the NPDES Program through terms and conditions of a mutual agreement and any municipality that is currently designated as a financially distressed municipality by the Department of Community and Economic Development under the Municipalities Financial Recovery Act (53 P.S. §§ 11701.101—11701.712) may be exempt from the fees in this section.

[Pa.B. Doc. No. 21-1377. Filed for public inspection August 27, 2021, 9:00 a.m.]

Title 40—LIQUOR

LIQUOR CONTROL BOARD

[40 PA. CODE CH. 5]

Responsible Alcohol Management Program

The Liquor Control Board (Board or PLCB), under the authority of sections 207(i) and 471.1 of the Liquor Code (47 P.S. §§ 2-207(i) and 4-471.1), amends §§ 5.201, 5.202, 5.211, 5.231—5.233 and 5.251 adds §§ 5.203—5.207, 5.212, 5.213, 5.221—5.227 and 5.234—5.236 and deletes §§ 5.241—5.243, 5.261 and 5.271 to read as set forth in Annex A.

Summary

In 2000, the Responsible Alcohol Management Program (RAMP) was established in the Liquor Code (47 P.S. §§ 1-101—10-1001) to provide for training and certification of licensees as to safe and responsible service of alcoholic beverages. At that time, participation in RAMP was mostly voluntary, except for licensees who were ordered to participate as a result of an adjudicated citation or because they were compelled to participate under the terms of a conditional licensing agreement. However, amendments to the Liquor Code have made RAMP training mandatory for managers and servers and have required RAMP certification of certain licensees:

- Act of June 28, 2011 (P.L. 55, No. 11) (Act 11) created the off-premises catering permit and required all servers at the off-premises catered site to receive RAMP server/seller training.

- Act of December 22, 2011 (P.L. 530, No. 113) (Act 113) amended the Liquor Code to require managers of a restaurant, eating place retail dispenser, hotel, club, limited distillery or distributor license to complete RAMP manager/owner training within 180 days of the Board's approval of the appointment.

- Act of June 8, 2016 (P.L. 273, No. 39) (Act 39) amended the Liquor Code to require all alcohol service personnel to complete RAMP server/seller training within 6 months of being hired by a licensee, unless the person had successfully completed the training prior to being hired.

- Act 39 amended the Liquor Code to provide for wine expanded permits, authorizing the permit holder to sell wine to patrons for off-premises consumption. Permit holders must obtain RAMP certification and have a RAMP-trained cashier at the register when patrons are on the licensed premises.

This final-form rulemaking clarifies what constitutes RAMP certification, what is required of those impacted by the legislative changes and provides guidance to those who want to offer RAMP server/seller training as online training providers or classroom instructors.

This final-form rulemaking clarifies the difference between RAMP training and RAMP certification, because members of the regulated community frequently confuse training and certification. A server/seller is required to receive server/seller training and a manager is required to receive owner/manager training. Sections 5.203 and 5.204 (relating to mandatory training for managers; and mandatory training for alcohol service personnel) are added to provide clarity to the regulated community.

Training is a component, a prerequisite for certification; it is not the equivalent of certification. Only licensees receive RAMP certification. Licensees may voluntarily obtain RAMP certification, or they may be required to obtain it as a result of an adjudicated citation, because of a conditional licensing agreement with the Board, or because it is necessary for a permit they seek to obtain, such as a wine expanded permit.

Prior to these amendments, there were instances where the term "certification" was used inconsistently throughout Subchapter I (relating to Responsible Alcohol Management Program) of the Board's regulations, which has contributed to the confusion in the regulated community. For example, prior to amendment in Annex A, § 5.231 is entitled "Instructor Certification;" § 5.243(a)(1) (relating to records) requires licensees to keep records on the "Certification status of its employees, managers and owners. . . ." Current § 5.233 (relating to minimum standards of training) addresses the need to have an alternative curriculum "certified" by the Board's Bureau of Alcohol Education (BAE).

This final-form rulemaking clarifies that "certification" is available to licensees only and requires the fulfillment of four prerequisites and then the submission of an application for certification of the licensee. The confusion and need for clarity on this issue prompted the addition of §§ 5.205 and 5.206 (relating to RAMP certification prerequisites; and RAMP certification). In addition, throughout this final-form rulemaking, if the word "certification" or "certified" was used in a context other than licensee certification, it was replaced with a more appropriate word. For example, online training providers and classroom instructors are authorized or deauthorized, not certified. Server/sellers and owner/managers receive training, not certification. Curriculum is approved, not certified.

This final-form rulemaking amends § 5.201 (relating to purpose) by keeping most of the first sentence but deleting the remainder. The provisions in subsection (a), pertaining to the four-part RAMP program, are set forth in more detail in new § 5.205. The provisions in subsections (b) and (c) are set forth in more detail in new §§ 5.205 and 5.206.

This final-form rulemaking expands the definitions listed in § 5.202 (relating to definitions) by adding terms that have been introduced in the new sections, such as alcohol service personnel, alternative curriculum, designated employee, material change, online training provider, standard curriculum and training voucher. Other definitions were amended to provide clarity and consistency within the regulation. In the proposed rulemaking, the Board deleted the definition for "responsible server practices." This final-form rulemaking restores that definition.

This final-form rulemaking adds § 5.203, which stems from the provision of Act 113 that requires managers, under section 471.1(g) of the Liquor Code, to obtain owner/manager training. This final-form provides that the manager will be deemed to have met the training requirement if they have successfully completed the training within the 2 years prior to being appointed manager. Two years was chosen as the time frame because it corresponds with RAMP certification, which is also valid for 2 years. In response to a comment from the Independent Regulatory Review Commission (IRRC), this final-form rulemaking is amended to clarify that owner/manager training expires after 2 years, and the owner/manager must renew training every 2 years.

This final-form rulemaking adds § 5.204, which stems from the provision of Act 39 that requires alcohol service

personnel, under section 471.1(h) of the Liquor Code, to obtain server/seller training. Like § 5.203, the alcohol service personnel will be deemed to have met the training requirement if they have successfully completed the training within 2 years prior to being hired by the licensee. In response to comments from IRRC, this final-form rulemaking is amended to clarify that server/seller training expires after 2 years, and that alcohol service personnel must renew training every 2 years.

This final-form rulemaking adds § 5.205 which is intended to clarify that training alone does not constitute certification. The word "prerequisites" was deliberately chosen to signal that the four components are not synonymous with certification. The four prerequisites are (1) owner/manager training, which was formerly located in deleted § 5.241 (relating to manager/owner training); (2) server/seller training, which was previously not explained in detail; (3) new employee orientation, which was formerly located in deleted § 5.242; and (4) display of responsible alcohol service signage, which was previously located in deleted § 5.261.

In this final-form rulemaking, the Board clarifies that new employee orientation is required of all alcohol service personnel when an employer is preparing to apply for RAMP certification for the first time. Section 471.1(a) of the Liquor Code provides that "Training for alcohol service personnel shall be as set forth by the Board, but at minimum it shall consist of training to prevent service of alcohol to minors and to visibly intoxicated persons." The basic information covered in the new employee orientation is important for all alcohol service personnel to know. In this way, the BAE is assured that an employer's alcohol service personnel have been given this information, not just those recently hired.

IRRC asked the Board to explain the reasonableness of allowing an employer 30 days to conduct new employee orientation. It bears noting that this provision is currently located in deleted § 5.242(a), and as such, was previously approved by IRRC. In addition, note that 30 days is the deadline for new employee orientation. At every owner/manager training, the Board stresses that licensees should not wait to review the new employee orientation form with new staff, but should review it with them as soon as possible, even before they start. However, since that could be challenging, providing a 30-day deadline gives them a certain time frame for the completion of this task.

Requiring this training to be completed within a shorter time frame could be burdensome to the regulated community. Many employees in the food services and drinking industry work part-time. Therefore, in a 30-day period of time, it is entirely possible that a licensee's new employee might only work four to eight times—the equivalent of once or twice a week. Allowing a licensee 30 days to provide new employee orientation gives the licensee a fair opportunity to meet this requirement.

This task is only required for licensees that are seeking RAMP certification or wish to remain compliant. It is not otherwise mandatory. RAMP certification is voluntary for most licensees. Completing the new employee orientation form is a component of the program to remain compliant once certified.

Section 5.206 incorporates text from former § 5.271. Section 5.206 was deliberately set apart from § 5.205 to make clear that satisfying the prerequisites was not the equivalent of RAMP certification. Another step is required; a licensee must file an application with the Board for certification.

IRRC asked the Board to explain, in the preamble, its statutory authority for § 5.206(c), which binds the Office of Administrative Law Judge to take official notice of the Board's records with regard to licensee certification. The identical language regarding official notice was previously vetted by the regulatory process and is currently located in § 5.271(i) of the Board's regulations. The existing language was simply moved to another section as part of the overhaul of the chapter.

However, to be thorough, the Board provides the following explanation. Section 206 of the Liquor Code (47 P.S. § 2-206) places the Board under the auspices of the Administrative Code of 1929 (71 P.S. § 51—732): "Except as otherwise expressly provided by law, the Board shall be subject to all the provisions of The Administrative Code of one thousand nine hundred twenty-nine, as amended, which apply generally to independent administrative boards and commissions."

Section 506 of the Administrative Code of 1929 (71 P.S. § 186), empowers independent administrative Boards to prescribe rules and regulations for a variety of matters:

> The heads of all administrative departments, the several independent administrative Boards and commissions, the several departmental administrative Boards and commissions, are hereby *empowered to prescribe rules and regulations*, not inconsistent with law, for the government of their respective departments, Boards, or commissions, the conduct of their employes and clerks, the distribution and performance of their business, and the custody, use, and preservation of the records, books, documents, and property pertaining thereto.

71 P.S. § 186 (Emphasis added). Specific guidance as to the Board's authority to issue a regulation pertaining to official notice can be found in the *Pennsylvania Code*:

> *Official notice may be taken* by the agency head or the presiding officer of such matters as might be judicially noticed by the courts of this Commonwealth, or *any matters as to which the agency by reason of its functions is an expert*. Any participant shall, on timely request, be afforded an opportunity to show the contrary. Any participant requesting the taking of official notice after the conclusion of the hearing shall set forth the reasons claimed to justify failure to make the request prior to the close of the hearing.

1 Pa. Code § 35.173 (relating to official notice of facts) (Emphasis added).[1]

The Commonwealth Court articulated additional guidance on which subjects are appropriate for the doctrine of official notice:

> "Official notice" is the administrative counterpart of judicial notice and is the most significant exception to the exclusiveness of the record principle. *The doctrine allows an agency to take official notice of facts which are obvious and notorious to an expert in the agency's field and those facts contained in reports and records in the agency's files*, in addition to those facts which are obvious and notorious to the average person. Thus, official notice is a broader doctrine than is judicial notice and recognizes the special competence of the administrative agency in its particular field

[1] This regulation is found in 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure), which begins by citing the following authority: "The provisions of this Part II [are] issued under section 506 of The Administrative Code of 1929 (71 P.S. § 186); section 35 of the Administrative Agency Law (71 P.S. § 1710.35) (Repealed); and 45 Pa.C.S. §§ 503, 701 and 723, unless otherwise noted."

and also *recognizes that the agency is a storehouse of information on that field consisting of reports, case files, statistics and other data relevant to its work*.

Ramos v. Pa. Bd. of Prob. & Parole, 954 A.2d 107, 109-110 (Pa. Cmwlth. 2008) (Emphasis added) (citations omitted).

The Board's BAE is the only entity in the Commonwealth that is authorized to issue RAMP certification to a licensee.

For purposes of clarity, the Board's proposed rulemaking added language indicating that the Board's certification of a licensee's status as being RAMP compliant shall create a rebuttable presumption that the licensee is RAMP compliant. Additionally, in this final-form rulemaking, the Board clarifies that this is a matter of which official notice may be taken within the context of any proceeding before the Office of Administrative Law Judge or the Board.

Section 5.207 (relating to records) is based on former § 5.243 (relating to records). The language in subsection (a)(1) was updated to reflect the information that the BAE wants licensees to keep.

Section 5.211 (relating to curriculum for server/seller training) is amended and replaced with a sentence explaining that someone who wants to offer server/seller training may use either the Board's standard curriculum or an alternative curriculum that has been approved by the Board. This final-form rulemaking provides more information in §§ 5.212 and 5.213 (relating to standard curriculum; and alternative curriculum).

This final-form rulemaking adds § 5.212, providing that a standard RAMP curriculum for server/seller training is electronically available, free of charge, to anyone who requests it. If someone requests that the information be provided in hard copy through mail, the Board will provide it for a flat fee.

This final-form rulemaking adds § 5.213 to explain, in greater detail, what is required of someone who wants to get an alternative curriculum approved for use in server/seller training. The Board studied the time it takes to evaluate and approve an alternative curriculum. It is estimated that the process takes 17.5 hours at a cost to the Board of $515. Rounding the cost of estimation down to the nearest hundred ($500) and then dividing that figure in half results in a figure of $250. The Board is essentially subsidizing half the cost for the providers. This final-form rulemaking introduces a limit of two resubmissions to correct any deficiencies; that limit was chosen as a fair balance between the interests of the alternative curriculum offeror and the limited resources of the BAE.

This final-form rulemaking includes a new heading, Online Training Providers and Programs for Server/Seller Training. The increased demand for RAMP server/seller training can be met, in part, by online server/seller training.[2] The BAE has allowed a limited number of online training providers to offer server/seller training since November 2011. The section is based on the BAE's experience with existing online training providers and includes guidance for anyone wanting to become a new online training provider.

IRRC asked the Board to explain, in the preamble, the implementation procedure for authorizing a business as an online training provider. The Board will authorize a business to provide online training courses, and already has. Regardless of the business organization, at the core is an individual who is providing the RAMP training services. The BAE will review the minimum qualifications of the individual who will be providing training services on behalf of the business, which qualifications are the same required of an individual and are set forth in § 5.231(b) (relating to classroom instructor application).

Section 5.221 (relating to online training provider application) also includes a limitation that the Board will only accept applications during scheduled open enrollment periods. The purpose behind this amendment is primarily to control the number of applications received by the BAE. To ensure that those seeking server/seller training receive a quality experience, online training providers must be thoroughly evaluated. Evaluating online training providers is a time-consuming process, which includes numerous deadlines for the applicant and the BAE, and the BAE has only nine staff members available to conduct the evaluations. Therefore, limiting the acceptance of applications to scheduled periods is an effective way to ensure that the BAE can evaluate and authorize qualified online training providers within a reasonable time frame.

Section 5.221 establishes the procedure for someone applying to become a new online training provider. Currently, online training providers are assessed the same fee required of classroom instructors—$250—because the regulations do not as of yet provide for a fee for online training providers. To determine an appropriate fee for an online training provider application, the Board calculated the amount of time spent in evaluating the application and supporting the online training provider. The process includes, but is not limited to, reviewing the application and the online training content, providing feedback and evaluating resubmissions of training content, providing troubleshooting and records reconciliation, and course evaluation. It is estimated that the process takes 55 hours at a cost to the Board of $1,772.50. The evaluation is extensive and time consuming, since every link and every digital functionality must be tested to ensure that the program works as it is supposed to. As a result, this final-form rulemaking establishes the nonrefundable application fee of an online training provider at $850. This fee was calculated by rounding the cost of evaluation and support down to $1,700 and then dividing that figure in half. Again, the Board is subsidizing half of the cost.

Given the number of people who need to obtain server/seller training, the Board believes that online training providers can easily recoup the fee from alcohol service personnel in need of training. During Fiscal Year (FY) 2019-2020, 65,277 people received server/seller training from an online training provider, of which there are currently fourteen. If the number of students who obtained training were equally divided among the fourteen online training providers, each online training provider would have 4,662 students. The online training provider could recoup nearly the entire $850 application fee by charging each of those students 18 cents (4,662 × $.18 = $839.16). Put another way, an online training provider would only need $1 from approximately 1.302% of the 65,277 students to recoup nearly the entire application fee (65,277 × 1.302% = 849.91). Currently, online training providers charge from $8 to $40 per training, with most charging $20 or $25.

IRRC asked the Board to address, in the preamble, whether the Board has considered the economic impact upon prospective online training providers who will incur

[2] As an aside, only the Board may offer owner/manager training. 47 P.S. § 4-471.1(c).

expenses developing an online training module without knowing when it may submit an application for authorization. This scenario was not considered by the Board. A potential applicant who prepares an online training module with no idea as to when open enrollment will occur has taken an unnecessary risk of the applicant's own making.

IRRC also asked the Board to address, in the preamble, subsection (b), regarding minimum qualifications. This subsection does not require an online training provider to attend owner/manager training, which is mandatory for classroom instructors under § 5.234(7) (relating to classroom instructor responsibilities). In addition, § 5.234(6) requires classroom instructors to attend instructor meetings scheduled by the Board. IRRC asked the Board to explain the reasonableness of excluding online training providers from these requirements.

Online training providers do not have to attend owner/manager training because of the difference between an online training course and the classroom experience. With an online course, the student does not have an opportunity to ask questions or engage in a discussion of the material that may exceed the topic at hand. However, in a classroom setting, the classroom instructor delivers the information and provides a more in-depth explanation of it. Questions frequently arise and discussion is likely. It is important for the classroom instructor to have additional training to be prepared for these situations. This is the reason why classroom instructors must have additional training that online training providers are not required to have.

Section 5.222 (relating to online training program approval process) sets forth the approval process, which requires the evaluation of the online training program itself. An online training provider is allotted 120 days to give the Board access to the online training web site. After receiving access to the web site, the Board will determine whether the web site meets the minimum standards that are set forth in § 5.223 (relating to minimum standards of the online training program). The minimum standards include certain program features, program availability, program functionality, and the Board's final examination. The minimum standards also set forth security and technology requirements, such as encrypting personally identifiable information and prohibiting the online training provider from selling or using this information for any purpose other than for identification by the online training provider and verification by the Board.

Section 5.223 (relating to minimum standards of the online training program) sets forth the program features, program availability, program functionality, final examination, and security and technology requirements. Subsection (e) is amended to correct a reference to another section.

Section 5.224 (relating to online training provider responsibilities) establishes what is required of the online training provider. IRRC asked the Board to explain the need for and reasonableness of the requirement of setting a minimum number of students per online training provider, as established in paragraph (3). In response, the Board notes that RAMP training is important for the licensees and their personnel. The online training provider who is offering server/seller courses should be able to demonstrate a commitment to the training being offered. Even if the method of instruction is by computer and not classroom, requiring a minimum number of students ensures that the online training provider is committed to offering a professional service.

Section 5.224(7) originally required an online training provider to resolve a technical support inquiry within 1 business day. A commentator expressed concern with implementing this requirement when correcting technical issues and communicating with students. The commentator suggested that 2 business days is a more reasonable time frame. The commentator's suggestion has been accepted. This final-form rulemaking amends the time period to 2 business days.

Section 5.224(10)(i) originally required an online training provider to make changes to online training program content within 24 hours of being notified by the Board. IRRC asked the Board to explain, in the preamble, the reasonableness of how this provision will be implemented.

It is imperative that students receive the correct information. Licensees could be held liable for violations of the law if their employees are not properly trained. It is not acceptable to the BAE to allow misinformation to be disseminated.

That being said, there is frequently—but not always—a period of time before the law changes; some legislation provides for a period of 60 days before it becomes effective. This final-form rulemaking provides that the changes must be made by the date provided by the Board. Under this scenario, the BAE could notify all online training providers that changes must be made to program content and approved by the BAE by a specific day. The BAE will allow as much time as possible, but in some circumstances, the law changes immediately upon the signature of the Governor, and thus the timing of the changes is beyond the BAE's control.

Section 5.224(10)(iii) directs an online training provider to "[r]efrain from making material changes to online training program content" without approval from the Board or unless directed to by the Board. The online training provider is required to submit the material changes to the program for Board review and approval under clause (A). In response to comment by IRRC, clause (A) is amended in two respects. First, the procedures for review and approval will follow the procedures set forth in § 5.213, and language to that effect has been added to clause (A). Second, the nonrefundable fee has been changed from $850 to $250, to keep the provisions of clause (A) consistent with § 5.213.

In the proposed rulemaking, § 5.224(11)(i) required an online training provider to notify the Board not less than 30 days before an online training program is modified, enhanced or upgraded. In this final-form rulemaking, the paragraph is amended to delete the requirement of 30 days' notification and to simply require that the Board is notified before the implementation of any system enhancements or modifications. Students will often contact the BAE if they have an issue with an online training provider, so if the BAE has notice that an enhancement or modification has been implemented, this information can be shared with the student.

Section 5.225 (relating to renewal of authorization) explains the time frame and procedures for renewing the authorization to serve as an online training provider. Through this final-form rulemaking, the Board is establishing clear rules for the renewal of an online training provider's authorization. Currently, online training providers pay a renewal fee of $250. This fee has not been changed since 2010. To determine an appropriate fee, the Board calculated the amount of time spent in renewing

an online training provider. The process includes, but is not limited to, course evaluation, student records reconciliation and troubleshooting. It is estimated that the process takes approximately 39 hours at a cost to the Board of $1,222.50. As a result, § 5.225 of this final-form rulemaking increases the renewal fee of an online training provider from $250 to $600. This fee was calculated by rounding the cost of evaluation and support down to $1,200 and then dividing that figure in half. The Board is therefore subsidizing half of the cost to the provider.

In addition, § 5.225 imposes a late fee of $100 on an online training provider if a renewal application is not filed at least 30 days before the expiration of the authorization. Because RAMP has only nine staff members, requiring an online training provider to submit a renewal application 30 days before expiration allows sufficient time for the RAMP staff to process the request. This ensures that the online training provider's authorization is renewed in a timely fashion, without interruption of the provider's business.

In this final-form rulemaking, § 5.225 is amended to address two issues raised in response to the proposed rulemaking. First, hard copy screen shots of the online training program are not required with a renewal application if the online training provider certifies that no material changes were made to the online training program after it was last approved by the Board. Screen shots are only required of online training providers if they have incorporated material changes into their online training program.

Second, applications for renewal will not be accepted after the expiration date. In the proposed rulemaking, applications for renewal would have been accepted with the submission of a $250 late fee. However, IRRC pointed out that allowing the online training provider to file a late application for renewal creates a "gap of uncertainty," whereby it is unclear if the online training provider is authorized or not authorized to provide server/seller training. To eliminate this "gap of uncertainty," § 5.225 is amended to eliminate the acceptance of renewal applications after the date of expiration. In this final-form rulemaking, the language is amended to mirror the language in new § 5.235(c)(2) (relating to renewal of authorization) and now states the prohibition in the singular, rather than the plural.

Section 5.226 (relating to training vouchers) addresses a practice whereby online training providers issue training vouchers in bulk quantities to licensees with many employees, such as chain restaurants or casinos. The licensee may then give the training vouchers to its employees to obtain the server/seller training. Once these vouchers are sold, however, there is no guarantee that the online training provider will still be authorized to provide this training by the time the last voucher is redeemed and training is completed. The Board sought to protect licensees from having a large quantity of vouchers issued by an online training provider who no longer had authorization to provide training. In the proposed rulemaking, training vouchers were only valid for 60 days from the date of purchase.

In response to comments from the public and from IRRC, this final-form rulemaking of § 5.226 eliminates the provision that training vouchers expire after 60 days. This final-form rulemaking provides that training vouchers are valid for as long as the online training provider is authorized to provide server/seller training. Refunds for unused training vouchers are addressed in § 5.227 (relating to deauthorization of online training providers).

Section 5.227 sets forth the procedure that will be followed when an online training provider does not meet the minimum standards, does not meet its responsibilities or engages in prohibited conduct. In this final-form rulemaking, the Board adds subsection (b)(1), which explains what an online training provider must do if its authorization to provide online training is suspended. The suspended online training provider must immediately render the online training program inaccessible to new students. In addition, the online training provider must contact all students who have started the course but not finished it and advise them to finish the course within 14 days. Thus, students are alerted that they must finish, and no additional vouchers can be redeemed until the suspension is lifted.

In this final-form rulemaking, the Board adds subsection (c)(1), which explains what an online training provider must do if it has been deauthorized from providing online training. The deauthorized online training provider, like the suspended online training provider, must render the program inaccessible to new students, and advise students who have started the course that they must finish it within 14 days (§ 5.223(b)(2)(ii) requires students to provide an e-mail address during the registration process). Deauthorized online training providers must also contact, by e-mail or telephone, holders of unused training vouchers and advise them that the online training program is no longer valid, and they must remit refunds for all unredeemed training vouchers.

Section 5.231 increases the fee that a classroom instructor applicant must pay. Currently, new classroom instructors pay a fee of $250. This fee has not been changed since 2010. To determine an appropriate fee, the Board calculated the amount of time spent in evaluating and training a new classroom instructor. The process includes, but is not limited to, 2 days of instruction as well as on-site training evaluation. It is estimated that the process takes approximately 50 hours at a cost to the Board of $1,083.80. As a result, § 5.231 of this final-form rulemaking increases the nonrefundable application fee of a new classroom instructor from $250 to $500. This fee was calculated by rounding the cost of evaluation and support down to $1,000 and then dividing that figure in half. As a result, the Board subsidizes half of the cost.

During FY 2019-2020, 14,888 people obtained server/seller training in a classroom setting. There are currently 21 classroom instructors; if the people taking server/seller training were evenly distributed among the 21 classroom instructors, each instructor would teach approximately 709 people per year. The authorized classroom instructor can recoup nearly the entire $500 authorization fee by charging each student an additional seventy cents (709 × $.70 = $496.30). Put another way, a classroom instructor would only need $1 from approximately 3.3% of the 14,888 students to recoup the application fee (14,888 × 3.3% = 491.30). It is estimated that currently, classroom instructors charge from $15 to $50 per training, with most charging $25 to $40.

Section 5.231 includes a limitation that the Board will only accept applications during scheduled open enrollment periods. The purpose behind this amendment is primarily to control the number of applications received by the BAE. To ensure that those seeking server/seller training receive a quality experience, the classroom instructors must be thoroughly evaluated. Evaluating instructors is a time-consuming process, which includes numerous deadlines for the applicant and the BAE, and the BAE has only nine staff members available to conduct

the evaluations. Therefore, limiting the acceptance of applications to scheduled periods is an effective way to ensure that the BAE can evaluate and authorize qualified classroom instructors within a reasonable time frame.

Section 5.231 updates the requirements for a classroom instructor, including the fact that the applicant must have had, within the past 5 years, 2 years of experience as a trainer or in giving presentations. The purpose behind this change was to ensure that the applicant's skills in this area are still relatively fresh, not, for example, based on an experience from 20 years ago. In addition, hospitality experience is clarified to be related to hotel/restaurant management, to ensure that the applicant has ample experience.

This final-form rulemaking amends § 5.232 (relating to classroom instructor approval process) to address the classroom instructor approval process instead of classroom instructor responsibilities, which will be addressed in added § 5.234. The most significant change to the approval process is the institution of a probationary period. The probationary period allows the BAE to evaluate classroom instructors "in action," to ensure that the classroom instructor can actually teach the material. If a classroom instructor does not achieve a rating of "Outstanding," "Commendable," or "Satisfactory," the Board will terminate the classroom instructor's authorization.

Section 5.233 (relating to minimum standards of classroom training) amends the existing regulation in small ways to provide greater clarity to the regulated community. For example, because this final-form rulemaking introduces the category of online training providers, this section is amended to refer to "classroom instructors," to clearly distinguish them from online training providers.

As suggested by IRRC, the second sentence of subsection (a) is deleted because it is repetitive. In addition, the phrase "Within 7 days" is added to the beginning of subsection (e) to clarify the time frame for notifying students of their grade in the final examination.

Additionally, in § 5.233, a classroom instructor is required to notify the Board immediately when cancelling a training session or making a change to the training schedule. Previously, the methods of communication between the classroom instructor and the Board in these circumstances included first class United States mail, other delivery or express service, facsimile or e-mail. This final-form rulemaking amends the methods of communication to reflect the actual practice, which is by telephone or e-mail, eliminating all other methods.

Section 5.234 includes the existing content of § 5.232. The section is expanded to include a subsection requiring the classroom instructor on probationary status to adhere to the Board's Regulations and Probationary Status Instructor policies that will be provided by the Board. The section adds responsibilities of classroom instructors about making changes to the curriculum, about acknowledging communications from the Board, getting Board approval on marketing correspondence and keeping contact information up to date with the Board.

As suggested by IRRC, the phrase "modifications or changes" is replaced by the defined phrase "material changes," for increased clarity. For additional clarity, the text of § 5.234 is amended to explain that, if a classroom instructor wants to make material changes to either the standard curriculum or an approved alternative curriculum, the classroom instructor must submit the curriculum, including the material changes, to the BAE for review and approval in accordance with the provisions of § 5.213(b).

This final-form rulemaking adds new § 5.235. Through this final-form rulemaking, the Board is establishing clear rules for the renewal of a classroom instructor's authorization. Currently, classroom instructors pay a renewal fee of $250. This fee has not been changed since 2010. To determine an appropriate fee, the Board calculated the amount of time spent in renewing a classroom instructor. The process includes, but is not limited to, travelling to locations for onsite training evaluation. It is estimated that the process takes approximately 22.5 hours at a cost to the Board of $655. As a result, § 5.235 of this final-form rulemaking increases the renewal fee of a classroom instructor from $250 to $300. This fee is calculated by rounding the cost of evaluation and support down to $600 and then dividing that figure in half. The Board subsidizes half of the cost for the classroom instructor renewal.

Section 5.235(b)(2) requires that, if a classroom instructor wants to make material changes to the alternative curriculum, an additional $250 fee is required. The classroom instructor shall continue to use the alternative curriculum that was approved by the Board until the notice of authorization is renewed.

In addition, § 5.235 imposes a late fee on classroom instructors if renewal applications are not timely filed. Because RAMP has only nine staff members, requiring a classroom instructor to submit a renewal application 30 days before expiration allows sufficient time for the RAMP staff to process the request. This ensures that the instructor's authorization is renewed in a timely fashion, without interruption of the instructor's business. Renewals that are submitted shortly before expiration or after expiration tend to disrupt the work of the RAMP office; further, the late-submitting instructor will often ask for expedited service for what is truly an avoidable situation. Towards that end, an additional late fee of $100 is imposed to compel the timely submission of the application for renewal. This fee was adopted because it is the same fee that licensees must pay if they are untimely with their license renewal applications. See 47 P.S. § 4-470(a).

In this final-form rulemaking, § 5.235(c)(2) is amended to state that "The Board will not accept an application for renewal of authorization that is filed after the expiration of the current authorization." This is the identical language in § 5.225(b)(2). In addition, this final-form rulemaking establishes that the classroom instructor who has missed filing an application for renewal before the date of expiration will have to wait for open enrollment to submit a new application.

Section 5.236 (relating to deauthorization of classroom instructors) is nearly identical to § 5.227 except for the fact that it does not include provisions that are unique to online training providers: the invalidation of training that is completed after deauthorization and the invalidation of previously issued training vouchers. Neither of these scenarios is at issue with classroom instructors and, therefore, these provisions were not included in § 5.236.

This final-form rulemaking deletes § 5.241. This information can now be found in § 5.205(b)(1), relating to RAMP certification prerequisites. This final-form rulemaking deletes § 5.242. This information is restated with more detail and can now be found in § 5.205(b)(3). This final-form rulemaking deletes § 5.243. This information can now be found in § 5.207.

This final-form rulemaking amends § 5.251 (relating to additional prohibited conduct). New §§ 5.227 and 5.236

identify the conduct that will lead to deauthorization. To eliminate repetition, the text in § 5.251(a)(9), (b) and (c) is deleted. The remainder of the text in § 5.251 is amended to include minor updates in vernacular, to be consistent with the rest of this final-form rulemaking. The only significant change is the incorporation of a reference to the Pennsylvania Human Relations Act (43 P.S. §§ 951—963) (PHRA); discrimination or harassment based on age, race, sex, disability, national origin or religion or any other protected class under the PHRA is prohibited conduct.

Finally, this final-form rulemaking deletes §§ 5.261 and 5.271 (relating to signs; and premises certification). This information can now be found in §§ 5.205(b)(4) and 5.206, respectively.

Affected Parties

The affected parties include licensees and their employees, including managers and server/sellers, as well as entities that are offering RAMP server/seller training. For FY 2019-2020, 5,903 people enrolled in owner/manager training and 80,165 people enrolled in server/seller training. The affected parties also include the classroom instructors and online training providers. As of March 31, 2021, there are 21 classroom instructors and 14 online training providers of server/seller training.

Paperwork Requirements

This final-form rulemaking does not impose any new paperwork requirements on licensees, alcohol service personnel, managers, online training providers, or classroom instructors.

Fiscal Impact

The fee for a classroom instructor has increased from $250 to $500, with a renewal fee of $300. In addition, the fee for an online training provider is established as $850, with a renewal fee of $600. Moreover, these fees are less than half of the costs incurred by RAMP to train and authorize classroom instructors or to review the content of an online training provider as well as test every link and every digital functionality. However, as explained previously, these fees can readily be offset from the fees that online training providers and classroom instructors already charge to the tens of thousands of people who need server/seller training.

Effective Date

This final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Contact Person

Questions regarding this final-form rulemaking should be addressed to Rodrigo Diaz, Chief Counsel, Jason Worley, Deputy Chief Counsel or Norina Foster, Assistant Counsel, Office of Chief Counsel, Pennsylvania Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on June 3, 2019, the Board submitted a copy of the notice of proposed rulemaking, published at 49 Pa.B. 3733 (July 20, 2019), to IRRC and the Chairpersons of the House Liquor Control Committee and Senate Committee on Law and Justice for review and comment.

Under section 5(c) of the Regulatory Review Act, the Board is required to submit to IRRC and the House and Senate Committees copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC, the House and Senate Committees, and the public. The Board received comments from IRRC and from the public, the responses to which are set forth in separate documents.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2), on July 14, 2021, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 15, 2021, and approved the final-form rulemaking.

Findings

The Board finds that:

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

(2) The amendments to the Board's regulations in the manner provided in this order are necessary and appropriate for the administration of the Liquor Code.

Order

The Board, acting under authorizing statute, orders that:

(a) The regulations of the Board, 40 Pa. Code Chapter 5, are amended by adding §§ 5.203—5.207, 5.212, 5.213, 5.221—5.227 and 5.234—5.236, amending 5.201, 5.202, 5.211, 5.231—5.233 and 5.251 and deleting 5.241—5.243, 5.261 and 5.271 to read as set forth in Annex A.

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

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

TIM HOLDEN,
Chairperson

(*Editor's Note*: See 51 Pa.B. 4174 (July 31, 2021) for IRRC's approval order.)

Fiscal Note: Fiscal Note 54-90 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 40. LIQUOR

PART I. LIQUOR CONTROL BOARD

CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES

Subchapter I. RESPONSIBLE ALCOHOL MANAGEMENT PROGRAM

GENERAL

§ 5.201. Purpose.

This subchapter implements the provisions authorized under section 471.1 of the Liquor Code (47 P.S. § 4-471.1).

§ 5.202. Definitions.

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

Alcohol service personnel—Any employee of a licensee such as a bartender, waiter or, in the case of a distributor or importing distributor, a salesperson whose primary responsibility includes the resale, furnishing or serving of liquor or malt or brewed beverages. It shall also mean any employe, such as a doorperson, whose primary responsibility is to ascertain the age of individuals who are attempting to enter the licensed premises.

Alternative curriculum—Curriculum for server/seller training that was developed by an entity other than the Bureau of Alcohol Education.

BAE—Bureau of Alcohol Education—The office in the PLCB that is responsible for administering the Responsible Alcohol Management Program (RAMP).

Classroom instructor—An individual who is authorized by the PLCB to instruct students on server/seller training in a classroom setting where the instructor and the students are physically present.

Designated employee—An employee of a licensee whose primary job for the licensee is employee training or providing human resource services.

Licensee—An individual, person or entity that holds a license issued by the PLCB.

Material change—A change that affects or impacts the substance of the curriculum or changes the order of the curriculum. A material change may include the addition of unapproved information or the deletion of approved information.

New employee—An individual who has not been employed at the licensed premises in any capacity during the preceding year.

Online training provider—An individual or entity who is authorized by the PLCB to provide instruction to students on server/seller training by means of the Internet.

Owner/manager training—Training conducted by the PLCB or its employees for individuals who manage or own licensed premises.

PLCB—Pennsylvania Liquor Control Board.

RAMP—Responsible Alcohol Management Program—A certification program regarding the responsible sale and service of alcohol.

Responsible server practices—Procedures and practices used by alcohol service personnel to prevent the furnishing or selling of alcoholic beverages to minors and visibly intoxicated persons.

Server/seller training—Training conducted by the PLCB, a classroom instructor, or an online training provider for alcohol service personnel.

Standard curriculum—Curriculum for server/seller training that is produced and provided by the Bureau of Alcohol Education.

Student—An individual who has enrolled in a RAMP class or online training.

Training voucher—A code or password that grants permission or access to an online training program that may be purchased from an online training provider.

§ 5.203. Mandatory training for managers.

(a) Any manager who is required, under section 471.1(g) of the Liquor Code (47 P.S. § 4-471.1(g)), to complete owner/manager training within 180 days of approval of appointment by the PLCB will be deemed to have met that training requirement if the appointed manager successfully completed the training within the 2 years prior to being appointed manager.

(b) Licensees must ensure that the manager has successfully completed owner/manager training within the past 2 years.

(c) The first time an individual enrolls in owner/manager training, he or she shall enroll and attend the owner/manager training in a classroom setting. The individual may take subsequent owner/manager training in a classroom setting or by means of online training, as preferred.

(d) Owner/manager training expires after 2 years. An owner/manager must renew owner/manager training every 2 years.

§ 5.204. Mandatory training for alcohol service personnel.

(a) Any alcohol service personnel who is required, under section 471.1(h) of the Liquor Code (47 P.S. § 4-471(h)), to complete server/seller training within 6 months of being hired by a licensee will be deemed to have met that training requirement if the training was successfully completed within the 2 years prior to being hired by the licensee.

(b) Licensees must ensure that each member of their alcohol service personnel has successfully completed server/seller training within the past 2 years.

(c) If a licensee obtains an off-premises catering permit for use at a catered function, all alcohol service personnel must have successfully completed server/seller training within 2 years prior to the date of the catered function.

(d) Server/seller training expires after 2 years. Alcohol service personnel must renew server/seller training every 2 years.

§ 5.205. RAMP certification prerequisites.

(a) Licensees may seek RAMP certification voluntarily, may commit to obtaining certification as part of a conditional licensing agreement entered into with the PLCB, or may be required to obtain certification by a provision in the Liquor Code or as a result of an adjudicated citation.

(b) Licensees applying for RAMP certification under section 471.1 of the Liquor Code (47 P.S. § 4-471.1) must complete the following prerequisites:

(1) *Owner/manager training.*

(i) At least one owner or the PLCB-approved manager must complete the owner/manager training.

(ii) The first time an individual enrolls in owner/manager training, the individual shall enroll and attend the owner/manager training in a classroom setting. The individual may take subsequent owner/manager training in a classroom setting or by means of online training, as preferred.

(iii) Training will include instruction on proper service of alcohol, developing an alcohol service policy and establishing house rules and policies aimed at preventing sales of alcoholic beverages to minors or visibly intoxicated persons. Instruction will also be provided on identification checks and signs of visible intoxication. Instruction will be provided on techniques to ensure that alcohol service personnel are complying with house rules and policies, including the orientation of new and current employees and the documentation of incidents occurring in the workplace.

(iv) Owner/manager training will be conducted by the PLCB. The PLCB will maintain records establishing the names of individuals who have successfully undergone owner/manager training.

(2) *Server/seller training.*

(i) At least 50% of the licensee's alcohol service personnel must successfully complete server/seller training at the time of filing the application for certification of compliance. This percentage must be maintained or RAMP certification may be rescinded.

(ii) Successful completion of server/seller training is a score of 80% or better on the PLCB's final examination.

(iii) Training will include instruction on detecting signs of impairment and intoxication, identifying underage individuals, and detecting false identifications, including those that are altered, counterfeit or borrowed. Instruction will focus on the practical application of the skills necessary to properly check identification, prevent intoxication and refuse service.

(3) *New employee orientation.*

(i) When preparing to apply for RAMP certification for the first time, the licensee's owner, manager or designated employee must review an orientation checklist with all alcohol service personnel. The orientation checklist, provided by the PLCB, addresses the liquor laws regarding service to minors, service to visibly intoxicated patrons, acceptable forms of identification, carding practices and house policies.

(ii) New employees must receive orientation within 30 days of being hired by the licensee. When new employees are hired, the licensee is responsible for ensuring that the owner, manager or designated employee conducts new employee orientation within 30 days of the employee's hire.

(iii) Once completed, orientation checklists should be kept by the licensee throughout the person's employment and for 2 years after separation from employment.

(4) *Display of responsible alcohol service signage.*

(i) Licensees must post signs in the licensed premises. The signs will be provided by the PLCB, although a licensee may use its own signs as long as they are equivalent in size and content to the PLCB's signs.

(ii) The following signs must be posted, notifying patrons about:

(A) Acceptable forms of identification as described in section 495(a) of the Liquor Code (47 P.S. § 4-495(a)).

(B) The licensee's duty to refuse service to minors and visibly intoxicated persons under section 493(1) of the Liquor Code (47 P.S. § 4-493(1)).

(iii) The design of the signs must be so that they are legible from a distance of at least 10 feet. Signs must be located where patrons will easily see them.

(iv) The licensee is responsible for the posting and maintenance of signs.

§ 5.206. RAMP certification.

(a) After a licensee has completed the prerequisites of RAMP certification as set forth in § 5.205 (relating to RAMP certification prerequisites), the licensee may file an application with the PLCB for RAMP certification. There is no fee for applying for certification or recertification.

(1) If the PLCB finds that the licensee has satisfied the prerequisites, the PLCB will approve the application for certification of the licensee.

(2) RAMP certification is valid for 2 years. The PLCB will issue a notice of certification to the licensee that will advise the licensee of the date that the certification will expire.

(3) The licensee must continually satisfy the certification requirements during that period or certification may be rescinded.

(b) If the PLCB finds that the licensee has not satisfied the prerequisites, the PLCB will deny the application for certification of the licensee.

(1) If the licensee was required to obtain RAMP certification as a result of an adjudicated citation or by the terms of a conditional licensing agreement, but failed to do so, the PLCB will refer the matter to the Pennsylvania State Police, Bureau of Liquor Control Enforcement.

(c) The PLCB's certification of a licensee's status as being RAMP compliant shall create a rebuttable presumption that the licensee is RAMP compliant. This is a matter of which official notice may be taken within the context of any proceeding before the Office of Administrative Law Judge or the PLCB.

§ 5.207. Records.

(a) A licensee that has obtained RAMP certification shall keep the following records:

(1) A current list of all members of the licensee's alcohol service personnel, including the name of the employee, date of hire, date of training (owner/manager and server/seller) and date of new employee orientation.

(2) Date of licensee's certification.

(3) New employee orientation checklist(s), as explained in § 5.205(b)(3) (relating to RAMP certification prerequisites).

(4) Responsible alcohol service signs it posted, where and when the signs were posted, revised and reposted.

(b) These records shall be maintained as part of the licensee's operating records required to be kept for 2 years in accordance with section 493(12) of the Liquor Code (47 P.S. § 4-493(12)).

CURRICULUM FOR SERVER/SELLER TRAINING

§ 5.211. Curriculum for server/seller training.

Any individual or entity that wants to offer server/seller training must use the standard curriculum provided by the Bureau of Alcohol Education or an alternative curriculum that has been approved for use by the PLCB.

§ 5.212. Standard curriculum.

(a) The PLCB makes available, on the BAE's page on the PLCB's web site, an electronic link to the PLCB's standard curriculum and a manual to be used by students. If an individual or entity requests the PLCB to provide this information in hard copy by means of mail, the PLCB will assess a flat fee, pursuant to an established fee schedule, for printing and mailing the information. The fee schedule will be published on the BAE's page on the PLCB's web site.

(b) The standard curriculum includes instruction on detecting signs of impairment and intoxication, identifying underage individuals and detecting false identifications, including those that are altered, counterfeit or

borrowed. Instruction will focus on the practical application of the skills necessary to properly check identification, prevent intoxication and refuse service.

§ 5.213. Alternative curriculum.

(a) The PLCB makes available, on the BAE's page on the PLCB's web site, an electronic link to guidelines for submitting an alternative curriculum to be approved by the PLCB, along with an electronic link to the most current version of the PLCB's Web Trainee Transfer Service requirements. If an individual or entity requests the PLCB to provide this information in hard copy through mail, the PLCB will assess a flat fee, under an established fee schedule, for printing and mailing the information. The fee schedule will be published on the BAE's page on the PLCB's web site.

(b) The PLCB is authorized to approve the use of an alternative curriculum and student manual developed by another person or entity for use by an online training provider or a classroom instructor. An application for approval of the alternative curriculum and student manual must be accompanied by a nonrefundable $250 application fee. The PLCB may approve the use of the alternative curriculum and student manual if they are equivalent to or exceed the PLCB's standard curriculum.

(c)(1) In the event that the alternative curriculum and student manual are not equivalent to or do not exceed the PLCB's standard curriculum and student manual, the PLCB will advise the applicant in writing as to the deficiencies within 90 days of receiving the alternative curriculum, student manual and fee.

(2) The applicant will have 60 days from the date of the notification to complete the required changes to the alternative curriculum and resubmit it for evaluation. If the alternative curriculum and student manual still do not meet or exceed the PLCB's standard curriculum and student manual, the PLCB will again advise the applicant in writing as to the deficiencies. The applicant will then have 30 days from the date of the second notification to complete the required changes to the online training program and provide access to the PLCB for a final evaluation of the alternative curriculum. The resubmission under this subsection does not require the payment of an additional fee.

(i) If the alternative curriculum still includes deficiencies after the third submission to the PLCB, the PLCB will send a notice to the applicant by United States mail that the alternative curriculum will not be approved and that the application is closed. No refund will be given to the applicant.

(ii) The PLCB will not accept, for a minimum of 1 year from the date of the notice advising the applicant that the application was closed, another application for alternative curriculum approval from the applicant. Applications will only be accepted during a period of open enrollment, which shall be posted on the BAE's page on the PLCB's web site.

(3) If the applicant has rectified the deficiencies in the alternative curriculum and student manual and they are approved by the PLCB, the applicant shall submit a clean, final copy of the approved alternative curriculum and the student manual.

ONLINE TRAINING PROVIDERS AND PROGRAMS FOR SERVER/SELLER TRAINING

§ 5.221. Online training provider application.

(a) A person who wants to become an authorized online training provider of server/seller training shall submit an application for authorization issued by the PLCB and pay a nonrefundable application fee of $850, as well as a separate fee for a criminal record check.

(1) The PLCB will only accept applications during scheduled open enrollment periods, which shall be posted on the BAE's page on the PLCB's web site. The PLCB reserves the discretion to limit the number and frequency of open enrollment periods based on operational restrictions.

(b) The minimum qualifications of an online training provider are the same as the minimum qualifications of a classroom instructor, as set forth in § 5.231(b) (relating to classroom instructor application), except that online training providers are not required to attend owner/manager training.

(c) The applicant shall submit, for approval, a proposed online training program that must be approved by the PLCB before the PLCB will issue a notice of authorization to the online training provider.

§ 5.222. Online training program approval process.

(a) The online training program must be based on the PLCB's standard curriculum or an alternative curriculum that has been approved by the PLCB.

(1) Within 120 days of receiving the standard curriculum or approval to use an alternative curriculum, the applicant shall provide the PLCB with access to the proposed online training web site, including necessary login information for the purpose of viewing content and testing the web site.

(2) If the applicant requires more than 120 days to provide the PLCB with access to the proposed online training web site, the applicant may request an extension in writing, by letter or by e-mail. The PLCB may grant a 30-day extension for temporary, nonrecurring exigencies, such as instructor illness or family emergency, bad weather or other circumstances beyond the instructor's control.

(3) If the applicant does not provide the PLCB access to the proposed online training web site by the deadline provided by the PLCB, the application will be denied and no refund will be given to the applicant.

(b) Upon receipt of the applicant's proposed online training program, the PLCB will review and test the proposed online training program. While the online training program is under review by the PLCB, the applicant may not advertise the availability of the online training program or provide public access to the online training program.

(c) The PLCB will determine whether an applicant's online training program meets the minimum standards set forth in § 5.223 (relating to minimum standards of the online training program).

(d) After the initial evaluation, the PLCB will, if necessary, notify the applicant of any required changes that need to be made to the online training program. The applicant will have 60 days from the date of the notification to complete the required changes to the online training program and provide access to the PLCB for a second evaluation of the online training program.

(e) After the second evaluation, the PLCB will, if necessary, again notify the applicant of any required changes that need to be made to the online training program. The applicant will have 30 days from the date of the notification to complete the required changes to the

online training program and provide access to the PLCB for a final evaluation of the online training program.

(1) If the online training program still requires changes after the third submission to the PLCB, the PLCB will send a notice to the applicant by United States mail that the online training program will not be approved and that the application is closed. No refund will be given to the applicant.

(2) The PLCB will not accept, for a minimum of 1 year from the date of the notice advising the applicant that the application was closed, another application for online training program approval from the applicant. Applications will only be accepted during a period of open enrollment, which shall be posted on the BAE's page on the PLCB's web site. See § 5.221(a) (relating to online training provider application).

(f) If the applicant meets the minimum requirements and the PLCB has approved that person's proposed online training program, the PLCB will issue to the online training provider a notice of authorization.

(g) The period of authorization shall be 1 year from the date of issuance of the notice of authorization. The renewal of authorization is addressed in § 5.225 (relating to renewal of authorization).

§ 5.223. Minimum standards of the online training program.

(a) *Program features.*

(1) The program content for the online training program must be either the standard curriculum or an approved alternative curriculum. Material changes to the curriculum may not be made without the approval of the PLCB.

(2) The online training program must cover topics required by the PLCB. The topics must be grouped into training modules. For some topics, the online training program must include mandatory language. The required topics, the mandatory language and the PLCB's final examination will be made available to the applicant by the PLCB.

(3) The online training program must include knowledge checks at the end of each training module. Knowledge checks ensure that a student is properly reviewing and understanding the program content. The online training program must require a student to correctly answer questions based on course content. These questions should be designed to evaluate the student's comprehension of each training module before students are permitted to advance to the next training module.

(4) The online training program must use the PLCB's final examination.

(5) The online training program must consist of at least 1 1/2 hours of instructional time.

(6) The online training program must contain any disclaimers required by the PLCB, which the PLCB will provide to the applicant.

(b) *Program availability.*

(1) Every online training provider shall make its online training program available to the general public.

(2) An online training provider shall require a student to register for the online training program by using specific personal identifiers provided by the PLCB.

(i) The online training program must provide the opportunity for a student to confirm and edit the information submitted in the registration process before proceeding.

(ii) The registration process must require the student to provide an e-mail address.

(iii) As soon as the student has completed the registration process, the online training program must send the student an e-mail confirming the student's registration with that online training program. The e-mail must include a hyperlink to the online training program.

(3) If the online training provider offers training vouchers for licensees to purchase for the future use of the licensee's employees, the online training provider's web site must meet the requirements set forth in § 5.226 (relating to training vouchers).

(c) *Program functionality.*

(1) All text on each page or screen of the online training program must be narrated.

(2) Each page or screen of the online training program must be numbered.

(3) Each page or screen of the online training program must be timed so that a student may not advance to the next page or screen without having sufficient opportunity to review the contents of the current page or screen.

(4) Knowledge checks must be incorporated throughout the training.

(5) The online training program must require the student to answer security questions during registration that will be used, at random intervals, to validate student identity and participation throughout the course.

(6) The online training program must allow a student to pause and review previous pages or screens at any time.

(7) The online training program must allow a student to save progress in the program content, log out and resume the online training program at a later time. Once the student has begun the final examination however, logging out of the training program must not be permitted, as explained in subsection (d)(1)(i).

(d) *Final Examination.*

(1) At the conclusion of the online training program, the student shall be required to complete the PLCB's final examination.

(i) The student shall have one attempt at the final examination. The student shall not be permitted to log out of the final examination and resume the final examination at a later time.

(ii) Questions in the PLCB's final examination must be randomized by the online training provider.

(iii) The student shall not be able to print the final examination.

(2) The online training program must immediately score the final examination and immediately notify the student of that score. A score of 80% or better is required to pass the final examination.

(i) The online training program must be able to allow a student who receives a passing score on the final examination to print a certificate of completion provided by the PLCB.

(ii) A student who does not receive a passing score on the final examination may re-register for an online training program. However, the student may not retake the final examination without taking the online training program again.

(3) The online training program must provide each student with access to a manual.

(i) If the online training program is using the PLCB's standard curriculum, then the student shall be provided with the manual for that curriculum.

(ii) If the online training program is based on an alternative curriculum that has been approved by the PLCB, then the student shall be provided with the manual for that curriculum.

(iii) Manuals may not be printed until the conclusion of the final examination.

(iv) Manuals may not be provided to anyone not participating in an approved online training program.

(e) *Security and technology.*

(1) The online training program must comply with the most current version of the PLCB's Web Trainee Transfer Service requirements, as referenced in § 5.213(a) (relating to alternative curriculum).

(2) The online training program must encrypt, at all times, any personally identifiable information protected by law, including but not limited to a student's social security number or date of birth. The online training provider shall not sell or use this information for any purpose other than for identification by the online training provider and verification by the PLCB.

(3) The online training program must comply with any and all applicable Federal and State laws and regulations related to information security.

§ 5.224. Online training provider responsibilities.

Online training providers have the responsibility to do the following:

(1) Using the standard curriculum provided by the PLCB, or an alternative curriculum approved by the PLCB, provide students, by means of an online training program, with information regarding the current status of the law on issues regarding the sale or service of alcoholic beverages by licensees.

(2) Provide the PLCB with unlimited vouchers or pass codes that will allow the PLCB to access the online training program free of charge for review purposes.

(3) Train at least 225 students per year. Online training providers may request a waiver of the minimum requirements in this paragraph by sending a letter or e-mail to the PLCB. The PLCB will waive the requirements for minimum training activity for online training providers due to temporary, nonrecurring exigencies, such as online training provider illness or family emergency, bad weather or other circumstances beyond the online training provider's control.

(4) Provide accurate records of a student's completion of online training to the PLCB immediately following the online training by electronically transmitting the necessary electronic data regarding the student.

(i) Records must be sent in real-time or in frequent batch submissions not more than 15 minutes after completion of the final examination.

(ii) The online training provider shall monitor submissions daily and resolve, within 24 hours, any error message received from the PLCB indicating that the submission was not processed. If the error message cannot be resolved within 24 hours, the online training provider shall immediately notify the PLCB.

(iii) The online training provider shall maintain all records of online training sessions for a minimum of 2 years.

(5) Attend instructor meetings as scheduled by the PLCB.

(6) Refer all questions relating to course content to the PLCB.

(7) Provide technical support to students by means of telephone, internet chat exchange or e-mail. Technical support must be timely and accurate. Any technical support inquiry from a student must be resolved within 2 business days.

(8) Acknowledge or respond to e-mails, telephone calls or any other contacts placed by the PLCB, licensees or trainees, or both, within 48 hours.

(9) Submit all forms of correspondence used for marketing purposes to the PLCB for approval prior to dissemination. An online training provider shall not use any forms of correspondence for marketing purposes that have not been approved by the PLCB.

(10) With regard to changes to program content:

(i) Make required changes to written program content by the date provided by the PLCB.

(ii) Block public access to the program content until the required changes have been made and approved by the PLCB.

(iii) Refrain from making material changes to online training program content without being required to do so by the PLCB or without receiving approval from the PLCB to make the material changes.

(A) If the online training provider wants to make a material change to the online training program, the online training program must be submitted for review and approval, under the procedure set forth in § 5.213 (relating to alternative curriculum), along with a nonrefundable fee of $250 as required by that section, unless the changes were required by the PLCB.

(11) With regard to security and technology:

(i) Provide the PLCB with notice of any system enhancements or modifications, including upgrades and new versions and releases.

(ii) Report, in accordance with the Breach of Personal Information Notification Act (73 P.S. §§ 2301—2329), any breach of system security or unauthorized release of personally identifiable information.

(iii) Report to the PLCB, within 24 hours, any system failure that prevents compliance with any of the requirements of this regulation.

(iv) Ensure the correction of a system failure within 7 calendar days.

(12) Notify the PLCB within 7 days of a change in the online training provider's telephone number, e-mail address or physical address and provide the PLCB with the new telephone number, e-mail address or physical address.

§ 5.225. Renewal of authorization.

(a) At least 30 days prior to the expiration of the online training provider's authorization, the online training provider shall submit an application for renewal of authorization, which will be provided by the PLCB.

(1) If the online training provider does not want to make material changes to the online training program

from the last time it was approved by the PLCB, the online training provider shall certify that no material changes were made to the online training program after it was last approved by the PLCB. In addition, the online training provider shall submit a $600 fee with the online training provider's application for renewal of authorization, as well as a separate fee for a criminal record check.

(2) If the online training provider wants to make material changes to the online training program, then a $850 fee must accompany the online training provider's application for renewal of authorization, as well as a separate fee for a criminal record check. The online training provider shall use the online training program approved by the PLCB until the notice of authorization has been renewed. The online training provider shall submit hard copy screen shots of the online training program that incorporates the material changes. The online training provider shall submit no more than two screen shots per one side of an 8 1/2 by 11 inch piece of paper. The screen shots may be in color or black and white.

(b) *Untimely applications for authorization renewal.*

(1) The PLCB may accept an application for renewal of authorization that is filed less than 30 days before the expiration of the current authorization, but not after expiration, if the applicant includes an additional filing fee of $100.

(2) The PLCB will not accept an application for renewal of authorization that is filed after the expiration of the current authorization.

(3) As of the date of the expiration of an online training provider's authorization, the following will no longer be valid:

(i) Training that is completed by a student after the date of expiration.

(ii) Any training vouchers issued by an online training provider that have not been redeemed and training completed.

(4) As of the date of the expiration of the online training provider's authorization, the online training provider is prohibited from allowing public access to its online server/seller training for server/sellers in this Commonwealth.

(5) The PLCB will not accept, for a minimum of 1 year from the date of expiration, an application from an online training provider whose authorization has expired. Under these circumstances, a new application must be filed, not an application for renewal. Applications will only be accepted during a period of open enrollment, which shall be posted on the BAE's page on the PLCB's web site. See § 5.221(a) (relating to online training provider application).

§ 5.226. Training vouchers.

(a) The online training provider may sell training vouchers for future use by a licensee's employees. A licensee may purchase training vouchers in bulk for future use by its employees.

(b) Training vouchers are valid for as long as the online training provider is authorized to provide server/seller training.

§ 5.227. Deauthorization of online training providers.

(a) The PLCB will send a notice of violation to an online training provider by certified United States mail if the online training provider is:

(1) Failing to meet the minimum standards of the online training program set forth in § 5.223 (relating to minimum standards of the online training program).

(2) Failing to meet the responsibilities set forth in § 5.224 (relating to online training provider responsibilities).

(3) Engaging in prohibited conduct set forth in § 5.251 (relating to additional prohibited conduct).

(b) The notice of violation will give the online training provider a deadline by which the violation must be remedied. The amount of time given to remedy the violation will vary depending upon the complexity of the circumstances and may be up to 60 days. The notice of violation may advise the online training provider that its authorization is temporarily suspended, pending resolution of the violation.

(1) If the online training provider receives a notice that its authorization is temporarily suspended, the online training provider must immediately prohibit all students from accessing the online training program until the violation that prompted the suspension has been resolved.

(c) If the violation is not remedied by the deadline, or if the PLCB has grounds to issue a second notice of violation within the same authorization year as the first notice of violation, the PLCB will send a notice of deauthorization to an online training provider by certified United States mail. An appeal of the PLCB's decision to deauthorize shall be in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(1) If the online training provider receives a notice that it has been deauthorized, the online training provider shall immediately:

(i) Render the online training program inaccessible by new students;

(ii) Contact, by e-mail, all students who have started the course but not finished it and advise them to finish it within 14 days after the date of deauthorization;

(iii) Contact, by e-mail or by telephone, the purchasers of all unredeemed vouchers and advise them that the online training program is no longer authorized; and

(iv) Remit refunds to all purchasers of vouchers that have not been redeemed. The online training provider shall refund the amount for these vouchers at the same bulk rate that the purchaser paid.

(d) The PLCB will not accept, for a minimum of 1 year from the notice of deauthorization, an application from an online training provider that has been issued a notice of deauthorization. Under these circumstances, a new application must be filed, not an application for renewal. Applications will only be accepted during a period of open enrollment. See § 5.221(a) (relating to online training provider application).

CLASSROOM INSTRUCTORS OF SERVER/SELLER TRAINING

§ 5.231. Classroom instructor application.

(a) A person desiring authorization to be a classroom instructor shall submit an application issued by the PLCB and pay a $500 nonrefundable application fee, as well as a fee for a criminal record check.

(1) The PLCB will only accept applications during scheduled open enrollment periods. The PLCB reserves the discretion to limit the number and frequency of open enrollment periods based on operational restrictions.

(b) The minimum qualifications of a classroom instructor include the following:

(1) Possessing a high school diploma or GED.

(2) Within the previous 5 years, having a minimum of 2 years of experience, full-time, as a trainer or in giving presentations in the field of education, law, law enforcement, substance abuse prevention, hospitality related to hotel/restaurant management or alcohol service training or other equivalent combination of experience and training.

(3) Being 21 years of age or older.

(4) Having no convictions that are related to alcohol, narcotics or other controlled substances and having no felony convictions in the previous 10 years.

(5) Attending owner/manager training once in the year preceding the date the application for instructor authorization is filed. Classroom instructors shall attend the owner/manager training in a classroom setting.

§ 5.232. Classroom instructor approval process.

(a) Applicants shall attend a 2-day mandatory training session in Harrisburg before the PLCB will issue a notice of authorization. An applicant who does not attend and complete the 2-day training session will be disqualified from consideration as a classroom instructor.

(b) The PLCB shall issue a notice of authorization to those applicants who have successfully completed the training session. The period of authorization shall be 1 year from the date of issuance of the notice of authorization. The classroom instructor is required to successfully complete a probationary period.

(1) Within the first 3 months of probation, the PLCB will evaluate the classroom instructor at least once. There are five possible evaluation ratings: Outstanding, Commendable, Satisfactory, Needs Improvement or Unsatisfactory.

(i) The classroom instructor must receive an "Outstanding," "Commendable" or "Satisfactory" rating to successfully complete the probationary period.

(ii) If the classroom instructor receives a "Needs Improvement" rating, the classroom instructor will be re-evaluated by the PLCB at any time within the next 3 months. Upon re-evaluation, the classroom instructor must receive an "Outstanding," "Commendable" or "Satisfactory" rating to successfully complete the probationary period. If the classroom instructor does not, the PLCB will terminate the classroom instructor's notice of authorization.

(iii) If the classroom instructor receives an "Unsatisfactory" rating, the PLCB will terminate the classroom instructor's notice of authorization.

(iv) "Termination" will be treated the same as deauthorization for purposes of § 5.236 (relating to deauthorization of classroom instructors).

§ 5.233. Minimum standards of classroom training.

(a) A classroom instructor shall conduct training sessions conforming to either the PLCB's standard curriculum or an alternative curriculum approved by the PLCB.

(1) Each training session must consist of at least 2 1/2 hours of uninterrupted instructional time, not including time spent reviewing information with students or administering the final examination. Each training session must be taught in one session from start to finish.

(2) The ratio of students per classroom instructor may not exceed 40 to 1.

(b) A classroom instructor shall notify the PLCB of the following:

(1) At least 7 calendar days in advance of scheduling any training session. A classroom instructor shall provide notification to the BAE through the BAE's page on the PLCB's web site.

(2) Immediately of any training session cancellation. A classroom instructor shall provide notification to the PLCB by telephone or by e-mail.

(3) Immediately of any changes to the training schedule. A classroom instructor shall provide notification to the PLCB by telephone or by e-mail.

(c) A classroom instructor shall obtain the student information indicated in paragraphs (1)—(4) at the beginning of the training session. A classroom instructor shall send a completed attendance sheet to the PLCB within 7 days of the end of the training session, including the following information from each student:

(1) Name.

(2) Home address and e-mail address.

(3) Telephone number.

(4) Student identification number issued by the PLCB.

(5) Licensed establishment name, address and licensee identification.

(6) Time, date and location of training.

(7) Pass/fail score on the test.

(d) At the conclusion of the training, the classroom instructor shall administer a final examination prepared by the PLCB, ensuring that students complete the final examination individually, as a closed book examination, without access to references or assistance from others to aid in the completion of the final examination.

(e) Within 7 days, the classroom instructor shall grade the final examinations and notify students of their grades. A score of 80% or better is required to pass. The classroom instructor shall provide a standard participant wallet card to each student who passes the final examination. These wallet cards are provided to the classroom instructor by the PLCB. A student who does not pass the final examination may, at the first opportunity, schedule training and take the final examination again. However, the student may not retake the final examination without receiving the training again.

§ 5.234. Classroom instructor responsibilities.

Classroom instructors have the responsibility to do the following:

(1) While on probationary status, the classroom instructor shall adhere to all of the PLCB's Regulations and Probationary Status Instructor policies that will be provided by the PLCB.

(2) Using the standard curriculum provided by the PLCB, or an alternative curriculum approved by the PLCB, provide students with information regarding the current status of the law on issues regarding the sale or service of alcoholic beverages by licensees. Classroom instructors shall provide each student with a student manual that corresponds to the standard curriculum or an alternative curriculum approved by the PLCB.

(i) A classroom instructor shall refrain from making any material changes to the standard curriculum without being required to do so by the PLCB.

(ii) A classroom instructor shall refrain from making any material changes to an alternative curriculum without first receiving approval from the PLCB to make the proposed modifications or changes.

(iii) If the classroom instructor wants to make material changes to either the standard curriculum or an approved alternative curriculum, the classroom instructor must submit the curriculum, including the material changes, to the BAE for review and approval, in accordance with the provisions of § 5.213(b) (relating to alternative curriculum), unless the changes were required by the PLCB.

(3) Schedule training sessions in locations throughout this Commonwealth.

(4) Conduct at least two training sessions per quarter and train at least 225 students per year. Classroom instructors may request a waiver of the minimum requirements in this paragraph by sending a letter or e-mail to the PLCB. The PLCB will waive the requirements for minimum training activity for instructors due to temporary, nonrecurring exigencies, such as instructor illness or family emergency, bad weather or other circumstances beyond the instructor's control.

(5) Provide accurate records of attendance and course completion, as required under § 5.233(c) (relating to minimum standards of classroom training), to the PLCB within 7 calendar days following each training session through the BAE's page on the PLCB's web site. Original attendance sheets must be submitted to the PLCB by first class United States mail, other delivery or express service or by e-mail.

(6) Attend instructor meetings as scheduled by the PLCB.

(7) Attend in-class owner/manager training at least once per year.

(8) Acknowledge or respond to e-mails, telephone calls or any other contacts placed by the PLCB, licensees and/or trainees within 48 hours.

(9) Submit all forms of correspondence used for marketing purposes to the PLCB for approval prior to dissemination. A classroom instructor shall not use any forms of correspondence for marketing purposes that have not been approved by the PLCB.

(10) Notify the PLCB within 7 days of a change in the classroom instructor's telephone number, e-mail address or physical address and provide the PLCB with the new telephone number, e-mail address or physical address.

§ 5.235. Renewal of authorization.

(a) At least 30 days prior to the expiration of the classroom instructor's authorization, the classroom instructor shall submit an application for renewal of authorization, which will be provided by the PLCB. A $300 fee must accompany the classroom instructor's application for renewal of authorization, as well as a separate fee for a criminal record check.

(b) If the classroom instructor is using an alternative curriculum, the classroom instructor shall submit a copy of the most recently PLCB-approved curriculum with the application for renewal of authorization. If the classroom instructor is using the standard curriculum, the classroom instructor need not submit a copy of the standard curriculum with the application for renewal of authorization.

(1) If the classroom instructor does not want to make material changes to the alternative curriculum from the last time it was approved by the PLCB, no additional fee is required.

(2) If the classroom instructor wants to make material changes to the alternative curriculum, then an additional $250 fee, for a total of $550, must accompany the classroom instructor's application for renewal of authorization. The classroom instructor shall use the alternative curriculum approved by the PLCB until the notice of authorization has been renewed.

(c) *Untimely applications for authorization renewal.*

(1) The PLCB may accept an application for authorization renewal that is filed less than 30 days before the expiration of the current authorization, but not after expiration, if the applicant includes an additional filing fee of $100.

(2) The PLCB will not accept an application for renewal of authorization that is filed after the expiration of the current authorization.

(3) The PLCB will not accept, for a minimum of 1 year from the date of expiration, an application from a classroom instructor whose authorization has expired. Under these circumstances, a new application must be filed, not an application for renewal. Applications will only be accepted during a period of open enrollment. See § 5.231(a) (relating to classroom instructor application).

§ 5.236. Deauthorization of classroom instructors.

(a) The PLCB will send a notice of violation to a classroom instructor by certified United States mail if the classroom instructor is:

(1) Failing to meet the minimum standards of classroom training set forth in § 5.233 (relating to minimum standards of classroom training).

(2) Failing to meet the responsibilities set forth in § 5.234 (relating to classroom instructor responsibilities).

(3) Engaging in prohibited conduct set forth in § 5.251 (relating to additional prohibited conduct).

(b) The notice of violation will give the classroom instructor a deadline if the violation can be remedied. The amount of time given to remedy the violation will vary depending upon the complexity of the circumstances.

(c) If the violation is not remedied by the deadline, or if the PLCB has grounds to issue a second notice of violation within the same authorization year as the first notice of violation, the PLCB will send a notice of deauthorization to the classroom instructor by certified United States mail. An appeal of the PLCB's decision to deauthorize shall be in accordance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).

(d) The PLCB will not accept, for a minimum of 1 year from the notice of deauthorization, an application from a classroom instructor that has been issued a notice of deauthorization. Under these circumstances, a new application must be filed, not an application for renewal. Applications will only be accepted during a period of open enrollment. See § 5.231(a) (relating to classroom instructor application).

§ 5.241. (Reserved).

§ 5.242. (Reserved).

§ 5.243. (Reserved).

ADDITIONAL PROHIBITED CONDUCT

§ 5.251. Additional prohibited conduct.

The PLCB may deauthorize classroom instructors or online training providers for violating any of the provisions of this subchapter or engaging in the following conduct:

(1) Discrimination or harassment based on age, race, sex, disability, national origin or religion, or any other protected class under the Pennsylvania Human Relations Act (43 P.S. §§ 951—963).

(2) An act that is in violation of the Liquor Code or this title.

(3) An act resulting in a misdemeanor or felony conviction.

(4) An act resulting in admittance into an Accelerated Rehabilitative Disposition (ARD) program if the underlying activity is related to alcoholic beverages, narcotics or controlled substances.

(5) Being under the influence of alcoholic beverages, narcotics or controlled substances during training presentations, breaks, or the final examination.

(6) Knowingly permitting students to be under the influence of alcoholic beverages, narcotics or controlled substances during training presentations, breaks, or the final examination.

(7) Cheating or condoning cheating by students.

(8) Knowingly providing false information on reports submitted to the PLCB.

§ 5.261. (Reserved).

§ 5.271. (Reserved).

[Pa.B. Doc. No. 21-1378. Filed for public inspection August 27, 2021, 9:00 a.m.]

Title 58—RECREATION

PENNSYLVANIA GAMING CONTROL BOARD
[58 PA. CODE CHS. 801a—817a AND 830a]
Interactive Gaming

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(30) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. § 13B02 (relating to regulatory authority), adds Chapters 801a—817a and 830a regarding interactive gaming to read as set forth in Annex A.

Purpose of the Final-Form Rulemaking

This final-form rulemaking establishes the regulatory oversight structure for the conduct of interactive gaming in this Commonwealth.

Explanation

Subpart L (relating to interactive gaming) establishes the regulations necessary for the Board to issue interactive gaming certificates slot machine licensees and qualified gaming entities who wish to offer interactive gaming, as well as the licensing of the principals and key employees of the certificate holders and other entities involved. In addition, Subpart O (relating to fantasy contests) provides rules for player accounts, licensed operator duties and restrictions, and accounting and internal controls governing the conduct of interactive gaming. Finally, Subpart L addresses advertising, compulsive and problem gambling, and self-exclusion of players from interactive gaming in this Commonwealth.

Subpart L establishes a broad regulatory oversight structure for interactive gaming. Section 801a.2 (relating to definitions) provides definitions of terms used throughout Subpart L for the conduct of interactive gaming.

Chapters 802a—808a of this final-form rulemaking establish the categories of certificates and licenses based upon the statutory criteria for the issuance of interactive gaming certificates and licensure in 4 Pa.C.S. Chapter 13B (relating to interactive gaming). Slot machine licensees, and out-of-State entities who are deemed to be qualified gaming entities, may apply for issuance of interactive gaming certificates to offer one or more of the three forms of interactive gaming (peer-to-peer, non-peer-to-peer slots and non-peer-to-peer table games). The categories of entities subject to licensure include interactive gaming operators, interactive gaming manufacturers, interactive gaming suppliers, interactive gaming service providers, and the principals and key employees of these entities.

Chapter 809a (relating to interactive gaming platform requirements) establishes the technical requirements for the interactive gaming platform provided by interactive gaming certificate holders or interactive gaming operators. Chapter 810a (relating to interactive gaming testing and controls) establishes the procedures for the testing and control aspects of the interactive gaming platform.

Chapter 811a (relating to interactive gaming accounting and internal controls) establishes the requirements and procedures for the revenue accounting and reporting of interactive gaming as well as other reporting requirements. Chapter 812a (relating to interactive gaming player accounts) sets forth the requirements for an individual's interactive gaming player account, including the procedures for the creation of an account, funding of player accounts and withdrawal of funds and setting responsible gaming limits.

Chapter 813a (relating to interactive gaming advertisements, promotions and tournaments) establishes the standards for interactive gaming advertising and promotions, including the requirements for the co-branding of ads to disclose the interactive gaming certificate holder. Chapter 814a (relating to compulsive and problem gambling requirements) and Chapter 815a (relating to interactive gaming self-excluded persons) address the options available for players to set responsible gaming limits or to self-exclude from interactive gaming.

Chapter 816a (relating to interactive gaming live studio) provides the framework for live studio simulcasting of casino table games in interactive gaming. Chapter 817a (relating to interactive gaming commencement of operations) establishes the requirements for an entity to begin offering interactive gaming. Chapter 830a (relating to multiuse computing device gaming provisions) provides the regulatory framework for interactive gaming in eligible airports in this Commonwealth.

In the Board's temporary regulations and the proposed rulemaking, an entity that possessed interactive gaming certificates was termed a "certificateholder." For consistency with 4 Pa.C.S. Chapter 11 (relating to Pennsylvania

Race Horse Development and Gaming Act) and the Board's existing body of regulations, this term has been replaced throughout Annex A of this final-form rulemaking to "certificate holder." The original term has not been bolded with strikethrough text, and the new term is not bolded and capitalized.

Other minor administrative changes are made in this final-form rulemaking, based upon how the interactive gaming industry operated under the temporary regulations and inquiries received from the industry regarding certain provisions of the temporary regulations and the proposed rulemaking. None of these amendments in this final-form rulemaking create an increased cost or regulatory burden on the regulated community, and all of the amendments are necessary for the efficient and effective oversight of interactive gaming operations in this Commonwealth.

Response to Comments

The Board did not receive any public comments from the regulated community or the general public. Comments were received from the Independent Regulatory Review Commission (IRRC), and responses to the comments are as follows:

1. *Protection of the public health, safety and welfare; implementation procedures.*

The Board acted with all possible due diligence in getting the final-form regulations promulgated to regulate the interactive gaming industry. After the passage of the act of October 30, 2017 (P.L. 419, No. 42), the Board was tasked with promulgating regulations for five separate forms of expanded gaming in rapid succession. In December 2020, Governor Tom Wolf signed the act of November 23, 2020 (P.L. 1140, No. 114), making amendments to the Fiscal Code of the Commonwealth that included a provision that extended the expiration date of temporary regulations of the Board from 2 years after publication to 3 years after publication. Therefore, the temporary regulations for interactive gaming, originally adopted in five different packages, expired or do not expire until varying dates between January 6, 2021, and March 9, 2022. To date, the Board has not had any issues involved in the regulatory oversight of interactive gaming.

2. *Compliance with the Regulatory Review Agenda and regulations of IRRC.*

All matters addressed in this comment have been remedied in the final-form Regulatory Analysis Form.

3. *§ 811a.2. Internal controls—clarity and lack of ambiguity.*

The definition of "personal identifiable information" has been moved to § 801a.2 to provide clarity on the use of the term in the regulations.

4. *§ 812a.13. Dormant accounts—nonregulatory language.*

This section has been updated to reflect the recommended change. Additionally, this section has been reordered, moving what was subsection (b) ahead of what was subsection (a), to make more logical sense in describing how an account becomes dormant.

5. *Chapter 815a. Interactive gaming self-excluded persons—protection of the public health, safety and welfare; clarity and lack of ambiguity.*

This chapter has been updated to mirror, when appropriate, the provisions included in final-form rulemaking # 125-225.

Fiscal Impact

Commonwealth. The Board expects that this final-form rulemaking will have a relatively small fiscal impact on the Board and other Commonwealth agencies, which primarily is the result of the need for some additional personnel to process and review applications, as well as to monitor and regulate the conduct of interactive gaming. Most of the additional duties will be absorbed by existing Board staff. The costs of the final-form regulations will be paid for by an assessment against the licensed interactive gaming certificate holder's interactive gaming revenue as determined by the Department of Revenue.

Political subdivisions. This final-form rulemaking will not have fiscal impact on political subdivisions of this Commonwealth.

Private sector. This final-form rulemaking will not have a fiscal impact on the private sector other than for those who elect to participate in interactive gaming. If pursued by an entity, there will be licensing costs as set forth by 4 Pa.C.S. Chapter 13B to offer interactive gaming as a certificate holder or operator, or to be licensed as a manufacturer, supplier or gaming service provider.

General public. This final-form rulemaking will not have fiscal impact on the general public.

Paperwork Requirements

A slot machine licensee who wishes to offer interactive gaming must file a Petition for Issuance of Interactive Gaming Certificates, as well as any necessary licensure applications for principals, key employees, gaming and nongaming employees.

An interactive gaming operator, interactive gaming manufacturer, interactive gaming supplier, interactive gaming service provider and principals, key employees and gaming and nongaming employees thereof involved in the provision of interactive gaming in this Commonwealth will be required to file applications with the Board providing information regarding the person's proposed activity, as well as accounting and internal control protocols and background information of each individual sufficient to permit the Board to determine the individual's suitability for licensure.

Individuals who wish to join the interactive gaming self-exclusion list, may do so online on the Board's web site by filling out a web-based form. The Board's web site address is https://responsibleplay.pa.gov/self-exclusion/.

A game offered in a live studio environment in accordance with these regulations must have a rules submission form filed. The rules submission forms may be found on the Board's web site.

Effective Date

This final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Board submitted a copy of the proposed rulemaking, published at 50 Pa.B. 4248 (August 22, 2020) and a copy of the Regulatory Analysis Form to IRRC and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees are provided with copies of comments received during the public comment period, as well

as other documents when requested. With regard to this final-form rulemaking, no comments were received from the Committees.

Under section 5.1(j.2) of the Regulatory Review Act, on May 19, 2021, the final-form rulemaking was deemed approved by the Committees. IRRC met on May 20, 2021, and approved the regulations in accordance with section 5.1(e) of the Regulatory Review Act.

Findings

The Board finds that:

(1) Public notice of intention to adopt these amendments was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), known as the Commonwealth Documents Law, and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2. (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) This final-form rulemaking is necessary and appropriate for the administration and enforcement of 4 Pa.C.S. Part II (relating to gaming).

Order

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

(1) The regulations of the Board, 58 Pa. Code Chapters 801—815, 817, 818, 830 and 801a—815a, 817a, 830a, are amended by adding §§ 801a.1—801a.4, 802a.1—802a.3, 803a.1—803a.4, 804a.1—804a.4, 805a.1—805a.6, 806a.1—806a.6, 807a.1—807a.9, 808a.1—808a.8, 809a.1—809a.8, 810a.1—810a.12, 811a.1—811a.9, 812a.1—812a.14, 813a.1—813a.5, 814a.1—814a.6, 815a.1—815a.8, 817a.1—817a.3 and 830a.1—830a.11, and deleting §§ 801.1—801.4, 802.1—802.3, 803.1—803.3, 804.1—804.4, 805.1—805.7, 806.1—806.7, 807.1—807.9, 808.1—808.8, 809.1—809.8, 810.1—810.13, 811.1—811.9, 812.1—812.14, 813.1—813.5, 814.1—814.6, 815.1—815.8, 817.1, 818.1—818.3 and 830.1—830.11 to read as set forth in Annex A.

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

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

DAVID M. BARASCH,
Chairperson

(*Editor's Note:* See 51 Pa.B. 3210 (June 5, 2021) for IRRC's approval order.)

Fiscal Note: Fiscal Note 125-229 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart L. INTERACTIVE GAMING

(*Editor's Note*: The term "certificateholder," found in the proposed rulemaking, has been changed throughout the text of the final-form rulemaking to "certificate holder" for consistency.)

CHAPTER 801. (Reserved)

Sec.
801.1—801.4. (Reserved).

CHAPTER 802. (Reserved)

Sec.
802.1—802.3. (Reserved).

CHAPTER 803. (Reserved)

Sec.
803.1—803.3. (Reserved).

CHAPTER 804. (Reserved)

Sec.
804.1—804.4. (Reserved).

CHAPTER 805. (Reserved)

Sec.
805.1—805.7. (Reserved).

CHAPTER 806. (Reserved)

Sec.
806.1—806.7. (Reserved).

CHAPTER 807. (Reserved)

Sec.
807.1—807.9. (Reserved).

CHAPTER 808. (Reserved)

Sec.
808.1—808.8. (Reserved).

CHAPTER 809. (Reserved)

Sec.
809.1—809.8. (Reserved).

CHAPTER 810. (Reserved)

Sec.
810.1—810.13. (Reserved).

CHAPTER 811. (Reserved)

Sec.
811.1—811.9. (Reserved).

CHAPTER 812. (Reserved)

Sec.
812.1—812.14. (Reserved).

CHAPTER 813. (Reserved)

Sec.
813.1—813.5. (Reserved).

CHAPTER 814. (Reserved)

Sec.
814.1—814.6. (Reserved).

CHAPTER 815. (Reserved)

Sec.
815.1—815.8. (Reserved).

CHAPTER 817. (Reserved)

Sec.
817.1. (Reserved).

CHAPTER 818. (Reserved)

Sec.
818.1—818.3. (Reserved).

CHAPTER 830. (Reserved)

Sec.
830.1—830.11. (Reserved).

CHAPTER 801a. GENERAL INTERACTIVE GAMING PROVISIONS

Sec.
801a.1. Scope.
801a.2. Definitions.
801a.3. Certificate or license required.
801a.4. Initial and renewal certificate and license fees.

§ 801a.1. Scope.

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

§ 801a.2. Definitions.

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

Airport authority—Any of the following:

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

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

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

Associated equipment—Any equipment or mechanical, electromechanical or electronic contrivance, component or machine used in connection with interactive gaming, including equipment which affects the proper reporting and counting of gross interactive gaming revenue, computerized systems for controlling and monitoring interactive games, including interactive gaming devices necessary for the operation of interactive games as approved by the Board.

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

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

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

(i) Chips or tokens.

(ii) Travelers checks.

(iii) Foreign currency and coin.

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

(v) Personal checks or drafts.

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

(vii) A prepaid access instrument.

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

Cheat—

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

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

(A) The result of an authorized interactive game.

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

(C) The value of a wagering instrument.

(D) The value of a wagering credit.

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

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

Communication technology—Any method used and the components employed to facilitate the transmission and receipt of information, including transmission and reception by systems using wire, wireless, cable, radio, microwave, light, fiber optics, satellite or computer data networks, including the Internet and intranets.

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

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

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

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

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

(i) An interactive gaming certificate holder or interactive gaming operator.

(ii) An interactive gaming manufacturer licensee or interactive gaming supplier licensee.

(iii) An interactive gaming service provider.

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

Gaming-related restricted area—A room or area of a licensed facility which is specifically designated by the Board as restricted or by the interactive gaming certifi-

cate holder or interactive gaming operator as restricted in its Board-approved internal controls.

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

Gross interactive airport gaming revenue—

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

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

(B) The actual cost paid by the interactive gaming certificate holder at a qualified airport through the use of multiuse computing devices for personal property distributed to a player as a result of playing an authorized interactive game. This clause does not include travel expenses, food, refreshments, lodging or services.

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

Gross interactive gaming revenue—

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

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

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

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

Interactive game—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Interactive gaming manufacturer—

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

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

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

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

Interactive gaming network—A linked system that permits registered players of multiple interactive gaming certificate holders or interactive gaming operators to participate in peer-to-peer interactive gaming.

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

Interactive gaming platform—The combination of hardware and software or other technology designed and used to manage, conduct and record interactive games and the wagers associated with interactive games, as approved by the Board. The term includes emerging or new technology deployed to advance the conduct and operation of interactive gaming, as approved through regulation by the Board.

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

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

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

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

(ii) Is determined to be an interactive gaming service provider by the Board in accordance with the provisions of Chapter 807a (relating to interactive gaming service providers).

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

Interactive gaming supplier—

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

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

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

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

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

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

International airport—An airport that offers direct commercial flights for eligible passengers which arrive from, or depart to, an airport not located within the United States of America.

Key employee—All of the following:

(i) An individual who is employed in a director or department head capacity and who is empowered to make discretionary decisions that regulate interactive gaming operations, including the Director of Information Technology (IT), IT Security Officer, Interactive Gaming Manager or other similar job classifications associated with interactive gaming.

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

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

(iv) Any other employees as determined by the Board.

Licensed facility—

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

conduct table games and, if authorized under sections 13B01—13B63 of the act, to conduct interactive gaming.

(ii) The term includes any of the following:

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

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

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

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

(iii) The term does not include a redundancy facility or an interactive gaming restricted area which is not located on the premises of a licensed facility as approved by the Board and which is maintained and operated by an interactive gaming certificate holder or interactive gaming operator in connection with interactive gaming or casino simulcasting.

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

Multiuse computing device—

(i) A computing device, including a tablet computer, that:

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

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

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

(D) Is approved by the Board.

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

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

(ii) The term shall not include any tablet or computing device that restricts, prohibits or is incapable of providing access to interactive gaming, interactive gaming skin or skins or interactive gaming platforms.

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

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

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

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

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

Personal identifiable information—Any data or information that can be used, on its own or with other data or information, to identify, contact or otherwise locate a registered player, including a registered player's name, address, date of birth and Social Security number.

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

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

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

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

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

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

Progressive payout—An interactive game wager payout that increases in a monetary amount based on the amounts wagered in a progressive system, including a multistate wide-area progressive system.

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

Qualified airport—A publicly owned commercial service airport.

Qualified gaming entity—A gaming entity which is not a Category 1, Category 2, Category 3 or Category 4 slot machine licensee, but is licensed in a jurisdiction other than the Commonwealth that has satisfied the requirements of this subpart and any other criteria established by the Board, including financial and character suitability requirements.

Redundancy facilities—Rooms or areas used by an interactive gaming certificate holder, an interactive gaming operator, or other licensed or authorized entity associated with the provision of interactive gaming for emer-

gency backup, redundancy or secondary operations attendant to interactive gaming as approved by the Board.

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

State gaming receipts—Revenues and receipts required under this subpart to be paid into the State Gaming Fund, the Pennsylvania Race Horse Development Trust Fund and the Pennsylvania Gaming Economic Development and Tourism Fund, and all rights, existing on the effective date of the act, as amended, or coming into existence later, to receive revenues and receipts.

Tournament—An interactive gaming contest or an organized series of interactive gaming contests approved by the Board in which an overall winner is ultimately determined.

§ 801a.3. Certificate or license required.

The Board will initiate formal procedures for the acceptance, consideration and final adjudication of petitions and applications by setting filing requirements and deadlines for interactive gaming certificates and interactive gaming licenses.

§ 801a.4. Initial and renewal certificate and license fees.

Prior to the Board issuing an interactive gaming certificate or interactive gaming license or renewal thereof, the interactive gaming certificate holder or interactive gaming operator shall pay the certificate or license fee as set forth in the act.

CHAPTER 802a. INTERACTIVE GAMING CERTIFICATES

Sec.
802a.1. Interactive gaming certificate requirements.
802a.2. Interactive gaming certificate petition and standards.
802a.3. Interactive gaming certificate term and renewal.

§ 802a.1. Interactive gaming certificate requirements.

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

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

(1) A peer-to-peer interactive game.

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

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

(c) The filing requirements and deadlines will be posted on the Board's public web site.

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

§ 802a.2. Interactive gaming certificate petition and standards.

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

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

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

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

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

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

(i) Peer-to-peer interactive games.

(ii) Non-peer-to-peer interactive games which simulate slot machines.

(iii) Non-peer-to-peer interactive games which simulate table games.

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

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

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

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

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

(11) Information and documentation, as the Board may require, to establish by clear and convincing evidence that the interactive gaming certificate petitioner has sufficient business ability and experience to conduct a successful interactive gaming operation. In making this determination, the Board may consider the results of the interactive gaming certificate petitioner's slot machine and table game operations, including financial information, employment data and capital investment.

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

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

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

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

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

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

(A) Age, identity and location verification requirements.

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

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

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

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

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

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

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

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

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

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

(i) Interactive gaming accounts.

(ii) Per hand charges, if applicable.

(iii) Transparency and reporting to the Board and the Department.

(iv) Distribution of revenue to the Commonwealth and winnings to registered players.

(v) Ongoing auditing and internal control compliance reviews.

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

(19) Any other information the Board may require.

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

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

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

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

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

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

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

(7) The petitioner agrees that the number of slot machines and table games in operation at its licensed facility as of October 30, 2017, the effective date of 4 Pa.C.S. Part II (relating to the Pennsylvania Race Horse Development and Gaming Act), will not be reduced as a result of interactive gaming.

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

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

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

(3) The integrity of financial backers.

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

(i) The background investigation of the principals.

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

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

§ 802a.3. Interactive gaming certificate term and renewal.

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

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

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

CHAPTER 803a. INTERACTIVE GAMING OPERATORS

Sec.
803a.1. Interactive gaming operator requirements.
803a.2. Interactive gaming operator application and standards.
803a.3. Interactive gaming license term and renewal.
803a.4. Interactive gaming operator change of control.

§ 803a.1. Interactive gaming operator requirements.

A person seeking to operate interactive gaming or an interactive gaming system on behalf of an interactive gaming certificate holder in this Commonwealth may apply with the Board for an interactive gaming license.

§ 803a.2. Interactive gaming operator application and standards.

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

(1) An Entity Enterprise Application and Disclosure Information Form unless otherwise directed by the Board.

(2) The nonrefundable application fee posted on the Board's web site.

(3) A diversity plan as set forth in section 1325(b) of the act (relating to license or permit issuance) and Chapter 481a (relating to diversity).

(4) An application from every key employee under this chapter and principal under Chapter 433a (relating to principal licenses) as specified by the Entity Enterprise Application and Disclosure Information Form.

§ 803a.3. Interactive gaming license term and renewal.

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

(c) An interactive gaming 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.

§ 803a.4. Interactive gaming operator change of control.

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

(1) More than 20% of an interactive gaming operator'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 operator.

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

(b) An interactive gaming operator 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 operator.

(c) Prior to acquiring a controlling interest in an interactive gaming operator, 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 § 808a.2 (relating to interactive gaming principals) and key employees as required under § 808a.3 (relating to interactive key employees).

(d) A person or group of persons seeking to acquire a controlling interest in an interactive gaming operator 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 operator 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 operator and the interactive gaming operator 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 operator when all of the following conditions are met:

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

(2) The existing licensed interactive gaming operator 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 804a. QUALIFIED GAMING ENTITY

Sec.
804a.1. Qualified gaming entity license requirements.
804a.2. Qualified gaming entity petition requirements.
804a.3. Qualified gaming entity application requirements.
804a.4. Qualified gaming entity interactive gaming certificate term and renewal.

§ 804a.1. Qualified gaming entity license requirements.

(a) A qualified gaming entity seeking to offer interactive gaming in this Commonwealth may petition the Board for an interactive gaming certificate if all of the following apply:

(1) The Board has published a notice on its web site that it is accepting petitions for qualified gaming entities.

(2) Any category of interactive game, as detailed in § 802a.1(b) (relating to interactive gaming certificate requirements), remains available after eligible slot machine licensees failed to petition for authorization to offer that category of interactive game directly or through an interactive gaming operator.

(3) The entity holds a license, in good standing, in any gaming jurisdiction which entitles the entity to conduct casino, table or poker-style games in a physical land-based casino or by means of the Internet, or both.

(b) The Board will approve and post the process for selecting eligible qualified gaming entities.

§ 804a.2. Qualified gaming entity petition requirements.

(a) A qualified gaming entity petitioner for an interactive gaming certificate shall submit to the Board a petition containing the information required by slot machine licensees seeking an interactive gaming certificate under § 802a.2 (relating to interactive gaming certificate petition and standards).

(b) The qualified gaming entity petitioner shall also show, by clear and convincing evidence, all of the following:

(1) It is licensed in good standing in another gaming jurisdiction.

(2) The licensing standards of that other gaming jurisdiction are comprehensive and thorough and provide similar safeguards as those required by the Commonwealth.

(3) The petitioner has the business experience and expertise to operate an interactive gaming system.

(c) In addition to the materials required under subsections (a) and (b), the qualified gaming entity petitioner for an interactive gaming certificate shall show, by clear and convincing evidence, that it has implemented or will implement all of the following:

(1) Interactive gaming that complies in all respects with the requirements of this subpart and regulations promulgated by the Board.

(2) A system of age, identity and location verification protocols designed to block access to individuals under 21 years of age and persons otherwise excluded or prohibited from engaging in interactive gaming in accordance with this subpart, as approved by the Board, has been implemented by the petitioner.

(3) Appropriate data security standards to prevent unauthorized access by any person whose age, identity and location has not been verified or cannot be verified in accordance with the regulations promulgated by the Board.

(4) Appropriate standards to protect the privacy and security of registered players with a reasonable degree of certainty.

(5) A system of internal and accounting controls applicable to interactive gaming, and the security and integrity of all financial transactions in connection with the system, that complies with this chapter and regulations promulgated by the Board.

§ 804a.3. Qualified gaming entity application requirements.

(a) If selected under the Board process in § 804a.1(b) (relating to qualified gaming entity license requirements), the eligible qualified gaming entity petitioner shall submit all applicable applications for the issuance of an interactive gaming certificate as required by the Bureau of Licensing.

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

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

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

(3) The integrity of all financial backers.

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

(i) The background investigation of the principals.

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

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

§ 804a.4. Qualified gaming entity interactive gaming certificate term and renewal.

(a) A qualified gaming entity interactive gaming certificate 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 a qualified gaming entity interactive gaming certificate shall be filed at least 6 months prior to the expiration of the current certificate.

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

CHAPTER 805a. INTERACTIVE GAMING MANUFACTURER

Sec.
805a.1. Interactive gaming manufacturer license requirements.
805a.2. Interactive gaming manufacturer license application and standards.
805a.3. Interactive gaming manufacturer license term and renewal.
805a.4. Interactive gaming manufacturer abbreviated license process.
805a.5. Interactive gaming manufacturer licensee responsibilities.
805a.6. Interactive gaming manufacturer licensee change of control.

§ 805a.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 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.

§ 805a.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 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 808a.3 (relating to key employee license; and interactive key employees) and principal under Chapter 433a (relating to principal licenses) and § 808a.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.

(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.

§ 805a.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.

§ 805a.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, sports wagering devices or associated equipment, video gaming terminals, table game devices or associated equipment and all of the following apply:

(1) The license was issued by the Board and is currently in good standing.

(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.

§ 805a.5. 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 interactive gaming manufacturer who is a gaming or nongaming employee as defined in § 801a.2 (relating to definitions) shall obtain a permit under § 808a.4 (relating to interactive gaming employees) or registration under § 808a.5 (relating to interactive nongaming employees).

§ 805a.6. 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 § 808a.2 (relating to interactive gaming principals) and key employees as required under § 808a.3 (relating to 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 certificate holder 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 806a. INTERACTIVE GAMING SUPPLIER

Sec.
806a.1. Interactive gaming supplier license requirements.
806a.2. Interactive gaming supplier application and standards.
806a.3. Interactive gaming supplier entity term and renewal.
806a.4. Interactive gaming supplier abbreviated license process.
806a.5. Interactive gaming supplier licensee responsibilities.
806a.6. Interactive gaming supplier change of control.

§ 806a.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 certificate holder 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.

§ 806a.2. Interactive gaming supplier application and standards.

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

(1) An 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 § 808a.3 (relating to interactive key employees) and principal under § 808a.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.

(b) In addition to the materials required under subsection (a), an applicant for an interactive gaming supplier license shall comply with the general application require-

ments 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.

§ 806a.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.

§ 806a.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, sports wagering devices or associated equipment, video gaming terminals, table game devices or associated equipment and all of the following apply:

(1) The license was issued by the Board and is currently in good standing.

(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.

§ 806a.5. 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 certificate holder. 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:

(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 § 801a.2 (relating to definitions) shall obtain a permit under § 808a.4 (relating to interactive gaming employees) or registration under § 808a.5 (relating to interactive nongaming employees).

§ 806a.6. 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 § 808a.2 (relating to interactive gaming principals) and key employees as required under § 808a.3 (relating to 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 certificate holder 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 (c).

(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 (c), 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 807a. INTERACTIVE GAMING SERVICE PROVIDERS

Sec.

807a.1. General interactive gaming service provider requirements.
807a.2. Interactive gaming service provider certification applications.
807a.3. Interactive gaming service provider registration applications.
807a.4. Qualification of individuals and entities of certified interactive gaming service providers.
807a.5. Interactive gaming service provider registration and certification term and renewal.
807a.6. Authorized gaming service providers list; prohibited gaming service providers.
807a.7. Permission to conduct business prior to certification or registration.
807a.8. Emergency interactive gaming service provider.
807a.9. Duty to investigate.

§ 807a.1. General interactive gaming service provider requirements.

(a) Except as provided in § 807a.9 (relating to duty to investigate), an interactive gaming service provider or person seeking to conduct business with an interactive gaming certificate holder or interactive gaming operator shall apply to the Board for certification if the interactive gaming service provider or person is providing any of the following:

(1) Data hosting services unless the hosting service is in a jurisdiction, the standards of which are recognized by the Board, 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 registered player's interactive gaming account.

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

(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 § 807a.9, a gaming service provider or person seeking to conduct business with an interactive gaming certificate holder 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).

§ 807a.2. Interactive gaming service provider certification applications.

(a) An interactive gaming service provider seeking certification shall submit a Certification Application and Disclosure Form. The application and 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 § 807a.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.

§ 807a.3. Interactive gaming service provider registration applications.

(a) An interactive gaming service provider seeking registration shall complete a Gaming Service Provider Registration Form. The application and 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 § 807a.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 certificate holder 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.

(e) An individual who is a gaming or nongaming employee as defined in § 801a.2 (relating to definitions) shall obtain a gaming employee occupation permit in accordance with § 808a.4 (relating to interactive gaming employees) or a nongaming employee registration in accordance with § 808a.5 (relating to interactive nongaming employees).

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

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

§ 807a.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 gaming certificate holder 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—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—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 person 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 § 801a.2 (relating to definitions) shall obtain a permit under § 808a.4 (relating to interactive gaming employees) or registration under § 808a.5 (relating to interactive nongaming employees).

§ 807a.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 6 months 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.

§ 807a.6. Authorized gaming service providers list; prohibited gaming service providers.

(a) The Board will maintain a list of authorized gaming service providers and a list of prohibited 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 certificate holder 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 certificate holder 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 gaming service provider list. A slot machine licensee, interactive gaming certificate holder 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 certificate holder, 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 or provider on the prohibited gaming service provider list if any 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 certificate holder or interactive gaming operator that is necessary for the slot machine licensee, interactive gaming certificate holder or interactive gaming operator to comply with this chapter.

(d) A person seeking to be removed from the list of prohibited 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 gaming service providers. The petition must state the specific grounds believed by the petitioner to constitute good cause for removal from the prohibited 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 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 gaming service providers or attach any reasonable condition to the removal of a person from the list of prohibited gaming service providers.

§ 807a.7. Permission to conduct business prior to certification or registration.

(a) Notwithstanding § 807a.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 certificate holder 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 or a completed Gaming Service Provider Certification Application and Disclosure Information Form has been filed by the slot machine licensee, interactive gaming certificate holder or interactive gaming operator in accordance with § 807a.2 or § 807a.3 (relating to interactive gaming service provider certification applications; and interactive gaming service provider registration applications).

(2) 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 certificate holder or interactive gaming operator 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 certificate holder, 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 certificate holder, 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 certificate holder, interactive gaming operator or applicant under subsection (a) has been rescinded and that the slot machine licensee, interactive gaming certificate holder, interactive gaming operator or applicant shall cease conducting business with the applicant for certification or registration by the date specified in the notice.

§ 807a.8. Emergency interactive gaming service provider.

(a) An interactive gaming certificate holder or interactive gaming operator may utilize an interactive gaming service provider that is not registered, certified or authorized to conduct business in accordance with § 807a.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 certificate holder 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 certificate holder 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 certificate holder 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 § 808a.7 (relating to emergency and temporary credentials) prior to performing any work.

(d) If the slot machine licensee, interactive gaming certificate holder 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 certificate holder, interactive gaming operator and interactive gaming service provider shall comply with this chapter.

§ 807a.9. Duty to investigate.

(a) A slot machine licensee, interactive gaming certificate holder 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 certificate holder 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 certificate holder 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 certificate holder or interactive gaming operator believes would constitute a violation of the act or this part.

CHAPTER 808a. INTERACTIVE GAMING PRINCIPALS AND KEY, GAMING AND NONGAMING EMPLOYEES

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§ 808a.1. General provisions.

(a) An individual seeking a principal license, 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 a completed Multi-Jurisdictional Personal History Disclosure Form as well as 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 Electronic Application system.

(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 license, 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 certificate holders, 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 certificate holder 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 certificate holders in this Commonwealth that offer games or use equipment manufactured, supplied, developed or programmed by the interactive manufacturer or interactive supplier.

§ 808a.2. Interactive gaming principals.

(a) Principals and principal entities, as defined in §§ 401a.3 and 433a.1 (relating to definitions), shall submit an application for licensure as described in § 808a.1 (relating to general provisions).

(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 only be valid for the licensed or certified entity with which the principal is associated.

§ 808a.3. Interactive key employees.

(a) Key employees, as defined in §§ 401a.3 and 801a.2 (relating to definitions), shall submit an application for licensure as described in § 808a.1 (relating to general provisions).

(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.

§ 808a.4. Interactive gaming employees.

(a) Gaming employees, as defined in §§ 401a.3 and 801a.2 (relating to definitions), shall submit an application for licensure as described in § 808a.1 (relating to general provisions).

(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 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.

§ 808a.5. Interactive nongaming employees.

(a) Nongaming employees, as defined in § 401a.3 (relating to definitions), shall submit an application for registration as described in § 808a.1 (relating to general provisions).

(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 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.

§ 808a.6. Board credentials.

The individuals required to be licensed, permitted or registered under this subpart shall obtain a Board credential as described in § 435a.6 (relating to Board credentials).

§ 808a.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 435a.8 (relating to emergency credentials; and temporary credentials).

§ 808a.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 certificate holder or interactive gaming operator, 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.

CHAPTER 809a. INTERACTIVE GAMING PLATFORM REQUIREMENTS

Sec.

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§ 809a.1. Scope.

To ensure players are not exposed to unnecessary security risks by choosing to participate in interactive gaming in this Commonwealth and to ensure the integrity and security of interactive gaming operations in this Commonwealth, the system requirements in this chapter apply to all of the following critical components of an interactive gaming system:

(1) Interactive gaming system components which record, store, process, share, transmit or retrieve sensitive player information (for example, credit and debit card details, authentication information and player account balances).

(2) Interactive gaming system components which generate, transmit or process random numbers used to determine the outcome of games or virtual events.

(3) Interactive gaming system components which store results or the current state of a player's wager.

(4) Points of entry and exit from the previously listed systems or other systems which are able to communicate directly with core critical systems.

(5) Communication networks which transmit sensitive player information.

§ 809a.2. Definitions.

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

Domain name system—The globally distributed Internet database which maps machine names to IP numbers, and vice versa.

Player device—The device that converts communications from the interactive gaming platform into a human interpretable form and converts human decisions into a communication format understood by the interactive gaming platform. The term includes personal computers, mobile phones, tablets, and the like.

Primary server—First source for Domain Name System data and responses to queries.

Remote access—Any access from outside the interactive gaming system or interactive gaming system network, including access from other networks within the same facility.

Secondary server or *redundancy server*—A server that shares the same features and capabilities as the primary server serves and acts as a second or substitutive point of contact in case the primary server is unavailable, busy or overloaded.

Stateful protocol—A protocol in which the communication system utilized by the player and the primary or secondary server tracks the state of the communication session.

Stateless protocol—A protocol in which neither the player nor the primary or secondary servers communication systems tracks the state of the communication session.

§ 809a.3. Location of equipment.

(a) The Board shall approve the location of all interactive gaming devices and associated equipment used by an interactive gaming certificate holder or interactive gaming operator to conduct interactive gaming. The interactive gaming devices and associated equipment may be located in a restricted area on the premises of the licensed facility, in an interactive gaming restricted area within the geographic limits of the county in this Commonwealth where the licensed facility is situated or any other area, located within the United States, provided the location adheres to all of the following limitations:

(1) The primary server used to resolve domain name service inquiries used by an interactive gaming certificate holder or interactive gaming operator to conduct interactive gaming in this Commonwealth must be physically located in a secure data center.

(2) Any redundancy, secondary and emergency servers used by an interactive gaming certificate holder or interactive gaming operator to conduct interactive gaming in this Commonwealth must be physically located in a secure data center at a separate premises than the primary server within the Commonwealth.

(b) The Board may require interactive gaming system data necessary to certify revenue and resolve player complaints to be maintained in this Commonwealth in a manner and location approved by the Board. The data

must include data related to the calculation of revenue, player transactions, game transactions, game outcomes, responsible gaming and any other data which may be prescribed by the Board. The data must be maintained in a manner which prevents unauthorized access or modification without the prior approval of the Board.

§ 809a.4. Physical and environmental controls for equipment.

(a) An interactive gaming system and the associated communications systems must be located in facilities which provide physical protection against damage from fire, flood, hurricane, earthquake, and other forms of natural or manmade disaster by utilizing and implementing at least all of the following measures:

(1) Security perimeters (barriers such as walls, card-controlled entry gates or manned reception desks) must be used to protect areas that contain interactive gaming systems components.

(2) Secure areas must be protected by appropriate entry controls to ensure that access is restricted to only authorized personnel.

(3) All access must be recorded in a secure log which is available for inspection by Board staff.

(4) Secure areas must include an intrusion detection system. Attempts at unauthorized access must be logged.

(b) Interactive gaming system servers must be located in server rooms which prohibit unauthorized access.

(c) Interactive gaming system servers must be housed in racks located within a secure area.

(d) Interactive gaming system components must provide all of the following minimum utility support:

(1) Interactive gaming system components must be provided with adequate primary power.

(2) Interactive gaming system components must have uninterruptible power supply equipment to support operations in the event of a power failure.

(3) There must be adequate cooling for the equipment housed in the server area.

(4) Power and telecommunications cabling carrying data or supporting information services must be protected from interception or damage.

(5) There must be adequate fire protection for the interactive gaming system components housed in the server room.

§ 809a.5. Access to equipment.

(a) The interactive gaming certificate holder and interactive gaming operator shall limit and control access to the primary server and any secondary servers by ensuring all of the following:

(1) Maintain access codes and other computer security controls.

(2) Maintain logs of user access, security incidents and unusual transactions.

(3) Coordinate and develop an education and training program on information security and privacy matters for employees and other authorized users.

(4) Ensure compliance with all State and Federal information security policies and rules.

(5) Prepare and maintain security-related reports and data.

(6) Develop and implement an incident reporting and response system to address security breaches, policy violations and complaints from external parties.

(7) Develop and implement an ongoing risk assessment program that targets information security and privacy matters by identifying methods for vulnerability detection and remediation and overseeing the testing of those methods.

(b) Remote access to an interactive gaming certificate holder or interactive gaming operator's interactive gaming system is only permitted as follows:

(1) To Board employees upon request and without limitation.

(2) For testing purposes with prior approval from and as limited by the Board.

(3) By employees of an interactive gaming certificate holder or an interactive gaming operator with prior approval from and as limited by the Board.

(c) All interactive gaming certificate holder's or interactive gaming operator's interactive gaming systems must be available for independent testing by the Board, without limitation.

§ 809a.6. System requirements.

(a) *Interactive gaming system methodology*. An interactive gaming system shall be designed with a methodology (for example, cryptographic controls) approved by the Board to ensure secure communications between a player's device and the interactive gaming system. When reviewing the security of an interactive gaming certificate holder or interactive gaming operator's interactive gaming system methodology, the Board will consider all of the following:

(1) The interactive gaming system methodology shall be designed to ensure the integrity and confidentiality of all player communication and ensure the proper identification of the sender and receiver of all communications. If communications are performed across a third-party network, the system must either encrypt the data packets or utilize a secure communications protocol to ensure the integrity and confidentiality of the transmission.

(2) Wireless communications between the player device and the primary or secondary server must be encrypted in transit using a method (for example, AES, IPsec and WPA2) approved by the Board.

(3) All communications that contain registered player account numbers, user identification, or passwords and PINs must utilize a secure method of transfer (for example, 128-bit key encryption) approved by the Board.

(4) Only devices authorized by the Board are permitted to establish communications between a player device and an interactive gaming system.

(5) Server-based interactive gaming systems must maintain an internal clock that reflects the current date and time that must be used to synchronize the time and date among all components that comprise the interactive gaming system. The interactive gaming system date and time must be visible to the registered player when logged on.

(b) *Change or modification*. Any change or modification to the interactive gaming system shall be handled in accordance with the Change Management guidelines issued and distributed to interactive gaming certificate holders, interactive gaming operators, and interactive gaming manufacturers.

(c) *Standards for data logging*. An interactive gaming system must meet all of the following standards regarding data logging:

(1) Interactive gaming systems must employ a mechanism capable of maintaining a separate copy of all of the information required to be logged in this section on a separate and independent logging device capable of being administered by an employee with no incompatible function. If the interactive gaming system can be configured so that any logged data is contained in a secure transaction file, a separate logging device is not required.

(2) Interactive gaming systems must provide a mechanism for the Board to query and export, in a format required by the Board, all interactive gaming system data.

(3) Interactive gaming systems must electronically log the date and time any player gaming account is created or terminated (Account Creation Log).

(4) An interactive gaming system must maintain all information necessary to recreate player game play and account activity during each player session, including any identity or location verifications, for not less than 10 years.

(5) Unless otherwise authorized by the Board, when software is installed on or removed from an interactive gaming system, the action must be recorded in a secure electronic log (Software Installation/Removal Log), which must include all of the following:

(i) The date and time of the action.

(ii) The identification of the software.

(iii) The identity of the person performing the action.

(6) Unless otherwise authorized by the Board, when a change in the availability of game software is made on an interactive gaming system, the change must be recorded in a secure electronic log (Game Availability Log), which must include:

(i) The date and time of the change.

(ii) The identification of the software.

(iii) The identity of the person performing the change.

(7) Unless otherwise exempted by the Board, an interactive gaming system must record all promotional offers (Promotions Log) issued through the system. The log must provide the information necessary as determined by the Board to audit compliance with the terms and conditions of current and previous offers.

(8) Results of all authentication attempts must be retained in an electronic log (Authentication Log) and accessible for not less than 90 days.

(9) All adjustments to an interactive gaming system data made using stored procedures must be recorded in an electronic log (Adjustments Log), which lists all of the following:

(i) The date and time.

(ii) The identification and user ID of user performing the action.

(iii) A description of the event or action taken.

(iv) The initial and ending values of any data altered as a part of the event or action performed.

(d) *Security requirements*.

(1) Networks should be logically separated so that there should be no network traffic on a network link which cannot be serviced by hosts on that link.

(2) Networks must meet all of the following requirements to assure security:

(i) The failure of any single item should not result in a denial of service.

(ii) An intrusion detection system/intrusion prevention system must be installed on the network which can do all of the following:

(A) Listen to both internal and external communications.

(B) Detect or prevent Distributed Denial of Service attacks.

(C) Detect or prevent shellcode from traversing the network.

(D) Detect or prevent Address Resolution Protocol spoofing.

(E) Detect other Man-in-the-Middle indicators and server communication immediately.

(iii) Each server instance in cloud and virtualized environments should perform only one function.

(iv) In virtualized environments, redundant server instances cannot run under the same hypervisor.

(v) Stateless protocols should not be used for sensitive data without stateful transport.

(vi) All changes to network infrastructure must be logged.

(vii) Virus scanners or detection programs, or both, should be installed on all pertinent information systems and should be updated regularly to scan for new strains of viruses.

(viii) Network security should be tested by a qualified and experienced individual on a regular basis.

(ix) Testing should include testing of the external interfaces and internal network.

(x) Testing of each security domain on the internal network should be undertaken separately.

(3) An annual security audit shall be performed to complement the required independent testing laboratory testing and annual encryption certification.

(i) The security audit shall cover the underlying operating systems, network components and hardware changes not included in the evaluation of the interactive gaming software.

(ii) The security audit shall be performed by an independent third party who shall provide a detailed report with remediation or mitigation plans to the board, and may take the form of any of the following:

(A) Penetration test.

(B) Vulnerability assessment.

(C) Compliance audit.

(D) Risk assessment.

(4) Internal and external network vulnerability scans shall be run at least quarterly, or after any change or modification to the interactive gaming system that requires approval by the Board under the change manage-

ment guidelines distributed under § 809a.6(b) (relating to system requirements), unless otherwise directed by the Board.

(i) Testing procedures must verify that four quarterly internal and external scans take place every 12 months and that re-scans occur until all medium risk (CVSS4.0 or higher) vulnerabilities are resolved.

(ii) The quarterly scans may be performed by either an independent third party or by a qualified employee of the interactive gaming certificate holder or interactive gaming operator.

(iii) Verification of the scans shall be submitted to the Board on a quarterly basis and must include a remediation or mitigation plan for any vulnerabilities not resolved prior to the submission of the verification.

(e) *Self-monitoring of critical components*. The interactive gaming system must implement the self-monitoring of critical components. A critical component that fails self-monitoring tests shall be taken out of service immediately and may not be returned to service until there is reasonable evidence that the fault has been rectified. Required self-monitoring measures include all of the following:

(1) The clocks of all components of the interactive gaming system must be synchronized with an agreed accurate time source to ensure consistent logging. Time skew shall be checked periodically.

(2) Audit logs recording user activities, exceptions and information security events must be produced and kept for a period of time to be determined by the Board to assist in investigations and access control monitoring.

(3) System administrators and system operator activities must be logged.

(4) Logging facilities and log information must be protected against tampering and unauthorized access.

(5) Any modifications, attempted modifications, read access, or other change or access to any interactive gaming system record, audit or log must be detectable by the interactive gaming system. It must be possible to see who has viewed or altered a log and when.

(6) Logs generated by monitoring activities shall be reviewed periodically using a documented process. A record of each review must be maintained.

(7) Interactive gaming system faults shall be logged, analyzed and appropriate actions taken.

(8) Network appliances with limited onboard storage must disable all communication if the audit log becomes full or offload logs to a dedicated log server.

(f) *System disclosure requirements.*

(1) A petitioner for or holder of an interactive gaming certificate, an applicant for or holder of an interactive gaming license, and an applicant for or holder of an interactive gaming manufacturer license shall seek Board approval of all source code used to conduct interactive gaming in this Commonwealth.

(2) All documentation relating to software and application development should be available for Board inspection and retained for the duration of its lifecycle.

(3) All software used to conduct interactive gaming in this Commonwealth shall be designed with a method, approved by the Board, that permits remote validation of software.

(g) *Shutdown and recovery capabilities*. The interactive gaming system must have all of the following shutdown and recovery capabilities to maintain the integrity of the hardware, software and data contained therein in the event of a shutdown:

(1) The interactive gaming system must be able to perform a graceful shutdown and only allow automatic restart on power up after all of the following procedures have been performed:

(i) The program resumption routine, including self-tests, completes successfully.

(ii) All critical control program components of the interactive gaming system have been authenticated using a method approved by the Board.

(iii) Communication with all components necessary for the interactive gaming system operation have been established and similarly authenticated.

(2) The interactive gaming system must be able to identify and properly handle the situation when master resets have occurred on other remote gaming components which affect game outcome, win amount or reporting.

(3) The interactive gaming system must have the ability to restore the system from the last backup.

(4) The interactive gaming system must be able to recover all critical information from the time of the last backup to the point in time at which the interactive gaming system failure or reset occurred.

(h) *Recovery plan*. An interactive gaming certificate holder or interactive gaming operator shall have a plan in place, approved by the Board, to recover interactive gaming operations in the event that the interactive gaming system is rendered inoperable (that is, Disaster/Emergency Recovery Plan). When reviewing the sufficiency of an interactive gaming certificate holder or interactive gaming operator's plan to recover interactive gaming system operations in the event the interactive gaming system is rendered inoperable, the Board will consider all of the following:

(1) The method of storing player account information and gaming data to minimize loss in the event the interactive gaming system is rendered inoperable.

(2) If asynchronous replication is used, the method for recovering data should be described or the potential loss of data should be documented.

(i) *Recovery plan requirements*. An interactive gaming certificate holder's or interactive gaming operator's Disaster/Emergency Recovery Plan must also:

(1) Delineate the circumstances under which it will be invoked.

(2) Address the establishment of a recovery site physically separated from the interactive gaming system site.

(3) Contain recovery guides detailing the technical steps required to re-establish gaming functionality at the recovery site.

(4) Include a Business Continuity Plan that addresses the process required to resume administrative operations of interactive gaming activities after the activation of the recovered platform for a range of scenarios appropriate for the operations context of the interactive gaming system.

(j) *Location of equipment*. Equipment used by a server-based interactive gaming system for the sole purpose of

restoring data following a disaster must be located in a location within the United States as approved by the Board.

(k) *Player self-exclusion*. The interactive gaming system must provide an easy and obvious mechanism for players to access the Board's self-exclusion database to self-exclude from interactive gaming.

(l) *Mechanism for temporary suspension*. The interactive gaming system must provide a mechanism by which a player may elect to temporarily suspend his or her interactive gaming account for a period of no less than 72 hours in accordance with the terms and conditions agreed to by the player upon registration.

§ 809a.7. Geolocation requirements.

(a) An interactive gaming system must employ a mechanism to detect the physical location of a player upon logging into the interactive gaming system and as frequently as specified in the Board's technical standards and the interactive gaming certificate holder's or interactive gaming operator's approved internal controls submission. If the system detects that the physical location of the player is in an area unauthorized for an interactive gaming system, the system shall not accept wagers and must disable any interactive gaming activity for that player until the player is in an authorized location.

(b) The geolocation system must be equipped to dynamically monitor the player's location and block unauthorized attempts to access the interactive gaming system throughout the duration of the gaming session.

(c) An interactive gaming certificate holder or interactive gaming operator must prevent registered players within a licensed facility from accessing authorized interactive games on the registered player's own computers or other devices through the use of geolocation technologies.

(d) Interactive gaming shall only occur within this Commonwealth unless the conduct of gaming is not inconsistent with Federal law, law of the jurisdiction, including any foreign nation, in which the participating player is located, or the gaming activity is conducted pursuant to a reciprocal agreement to which the Commonwealth is a party that is not inconsistent with Federal law.

§ 809a.8. Security policy requirements.

Interactive gaming certificate holders and interactive gaming operators shall adopt and maintain a Board-approved information security policy which describes the certificate holder's or licensee's approach to managing information security and its implementation. This policy is required in addition to any similar requirements that may be imposed as part of the certificate holder's or licensee's internal controls. The information security policy must:

(1) Conform to the standards of the most recent version of the NIST cybersecurity framework.

(2) Be reviewed annually as well as when significant changes occur to the interactive gaming system or the processes which alter the risk profile of the interactive gaming system.

(3) Be approved annually by the certificate holder's or operator's management.

(4) Be communicated to all employees and relevant external parties.

(5) Delineate the responsibilities of the certificate-holder's or licensee's staff and the staff of any third parties for the operation, service and maintenance of the interactive gaming system and its components.

CHAPTER 810a. INTERACTIVE GAMING TESTING AND CONTROLS

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§ 810a.1. Scope.

To ensure players are not exposed to unnecessary security risks by choosing to participate in interactive gaming in this Commonwealth and to ensure the integrity and security of interactive gaming operations in this Commonwealth, this chapter applies to all games an interactive gaming certificate holder or interactive gaming operator seeks to offer to players in this Commonwealth.

§ 810a.2. Definitions.

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

Artwork or *art*—Graphical and auditory information that is sent to the player device for presentation to the player.

Game cycle—The finite set of all possible combinations.

Personal progressive—A progressive jackpot which only one player contributes to with qualifying progressive wagers and which only that player can win.

Player interface—The interface within the software in which the player interacts. The term is also referred to as the gaming window.

Progressive jackpot—

(i) An increasing prize based on a function of credits that are wagered.

(ii) A monetary prize that increases in value based on a function of credits wagered.

(iii) The term includes prizes that are awarded based on criteria other than obtaining winning outcomes in the game, such as mystery progressives.

§ 810a.3. Minimum game standards.

All of the following requirements apply to the game information, artwork, paytables and help screens which include all written, graphical and auditory information provided to the player either directly from the game interface or from a page accessible to the player from the game interface through a hyperlink located in a conspicuous location.

(1) All statements and graphics within the gaming information, artwork, paytables and help screens must be accurate and not misleading.

(2) All game rules and paytable information must be available to the player directly on the player interface or accessible from the player interface through a hyperlink without the need for funds to be deposited or funds to be staked.

(3) All game rules and paytable information must be sufficient to explain all the applicable rules and how to participate in all stages of the game.

(4) Paytable information must include all possible winning outcomes, patterns, rankings and combinations, and their corresponding payouts with a designated denomination or currency. All displayed payouts must be theoretically possible.

(5) The rules of the game must inform the players of the imperfections of the communications medium for the game and how this affects them.

(6) There must be sufficient information regarding any award payout adjustments such as fees, rakes, commissions, and the like.

(7) If the artwork contains game instructions specifying a maximum win then it must be possible to win this amount from a single game (including features or other game options).

(8) For games that offer bonus bets that require a base game bet, the minimum percentage return to player of the bonus bet must take into account that a base game bet must be placed.

(9) If random/mystery prizes are offered, the maximum value obtainable from the random/mystery prize must be indicated. If the value of the random/mystery prize depends on credits wagered or any other factors, this must be stated.

(10) The artwork should clearly state the rules for payments of prizes when multiple wins are possible.

(i) A description of what combinations will be paid when a pay line may be interpreted to have more than one individual winning combination ("only highest paid win per line").

(ii) When the game supports multiple pay lines, the artwork should display a message indicating wins on different pay lines are added or equivalent.

(iii) When the game supports scatters, artwork should display a message indicating that scattered wins are added to pay line wins, or equivalent, if this is the rule of the game.

(iv) The artwork should clearly communicate the treatment of coinciding scattered wins with respect to other possible scattered wins. For example, the artwork should state whether combinations of scattered symbols pay all possible prizes or only the highest prize.

(v) The artwork should clearly communicate the treatment of coinciding game outcome (that is, straight flush can be a flush and a straight, three red 7s can be any three 7s).

(11) If it is possible to bet on multiple lines and it is not clear which reel positions are part of each of the possible lines, then the additional lines must be clearly displayed on the artwork and appropriately labeled. The additional lines must either be shown on the displayed artwork, be available for display on a help screen or permanently displayed on all game-play screens in a location separate from the actual reels.

(12) When multiplier instructions are displayed on artwork, there must be no question as to whether the multiplier applies.

(13) All game symbols and objects must be clearly displayed to the player and not be misleading in any way. Game symbols and objects must retain their shape throughout all artwork, except while animation is in progress.

(14) The artwork must clearly state which symbols and objects may act as a substitute or wild and in which winning combinations the substitute/wild may be applied.

(15) The artwork must clearly state which symbols and objects may act as scatter and in which winning combinations the scatter may be applied.

(16) The game may not advertise upcoming wins unless the advertisement is accurate and mathematically demonstrable.

(17) All of the following requirements apply to games depicting cards being drawn from a deck:

(i) A game which utilizes multiple decks of cards must clearly indicate the number of cards and card decks in play.

(ii) Once removed from the deck, cards may not be returned to the deck except as provided by the rules of the game depicted.

(iii) The deck may not be reshuffled except as provided by the rules of the game depicted.

(18) All of the following requirements apply to multi-wager games:

(i) Each individual wager to be played must be clearly indicated to inform the player as to which wagers have been made and the credits bet per wager.

(ii) Each winning prize obtained must be displayed to the player in a way that clearly associates the prices to the appropriate wager. When there are wins associated with multiple wagers, each winning wager must be indicated in turn.

§ 810a.4. Minimum display standards.

All of the following game information must be visible or easily accessible to the player at all times during a player session:

(1) The name of the game being played.

(2) Restrictions on play or betting such as any play duration limits, maximum win values, and the like.

(3) The player's current session balance.

(4) The current bet amount. This is only during the phase of the game when the player can add to or place additional bets for that phase.

(5) Current placement of all bets.

(6) The denomination of the bet.

(7) The amount won for the last completed game (until the next game starts or betting options are modified).

(8) The player options selected for the last completed game (until the next game starts or a new selection is made).

(9) Initial player section options are to be described. Player selection options once the game has commenced should be clearly shown on the screen.

(10) The winning amount for each separate wager and total winning amount are to be displayed on the screen.

§ 810a.5. Random number generator standards.

(a) The random number generator must be cryptographically strong at the time of submission for approval. When more than one instance of a random number generator is used in an interactive gaming system, each

instance must be separately evaluated and certified. When each instance is identical but involves a different implementation within a game/application, each implementation shall also be separately evaluated and certified. Any outcomes from the random number generator used for game symbol selection/game outcome determination must be shown, by data analysis and a source code read, to:

(1) Be statistically independent, unless the submission has been approved for a persistent-state outcome determination.

(2) Be fairly distributed (within statistically expected bounds) over their range.

(3) Pass various recognized statistical tests.

(4) Be cryptographically strong.

(b) Random number generators must adhere to standards in § 461a.7 (relating to slot machine minimum design standards).

(c) The gaming laboratory may employ the use of various recognized tests to determine whether or not the random values produced by the random number generator pass the desired confidence level of 95%. These tests include the following:

(1) Chi-square test.

(2) Equi-distribution (frequency) test.

(3) Gap test.

(4) Overlaps test.

(5) Poker test.

(6) Coupon collectors test.

(7) Permutation test.

(8) Kolmogorov-Smirnov test.

(9) Adjacency criterion tests.

(10) Order statistic test.

(11) Runs tests (patterns of occurrences should not be recurrent).

(12) Interplay correlation test.

(13) Serial correlation test potency and degree of serial correlation (outcomes should be independent of the previous game, unless the submission has been approved for a persistent-state outcome determination).

(14) Tests on subsequences.

(15) Poisson distribution.

(d) The scaling method may not compromise the cryptographic strength of the random number generator. The scaling method must preserve the distribution of the scaled values. For example, if a 32-bit random number generator with a range of the set of integers in the closed interval (0, 2_{32}-1) were to be scaled to the range of the set of integers in the closed interval (1, 6) so that the scaled values can be used to simulate the roll of a standard six-sided die, then each integer in the scaled range should theoretically appear with equal frequency. In the example given, if the theoretical frequency for each value is not equal, then the scaling method is considered to have a bias. Thus, a compliant scaling method must have bias equal to zero.

(e) If the interactive gaming system utilizes hard-based random number generators, there must be dynamic/active, real-time monitoring of the output with a sample size large enough to allow for reasonably high statistically powerful testing so that game play is disabled when an output testing failure is detected.

(f) If the interactive gaming system utilizes a software-based random number generator, it must adhere to all of the following:

(1) The period of the random number generator, in conjunction with the methods of implementing the random number generator outcomes, must be sufficiently large to ensure that all game independent outcome combinations/permutations are possible for the given game/application, unless the submission has been approved for a persistent-state outcome determination.

(2) The methods of seeding/reseeding must ensure that all seed values are determined in a manner that does not compromise the cryptographic security of the random number generator.

(3) To ensure that random number generator outcomes cannot be predicted, adequate background cycling/activity must be implemented in between games. Whenever a game outcome is made up of multiple mapped random number generator values, background cycling/activity must be implemented during the game (that is, in between the selection of each mapped random number generator value) to ensure that the game outcome is not comprised of sequential mapped random number generator outcomes. The rate of background cycling/activity must be sufficiently random in and of itself to prevent prediction.

§ 810a.6. Software authentication.

The acquisition and development of new software must follow defined processes in accordance with the information security policy.

(1) The production environment must be logically and physically separated from the development and test environments.

(2) Development staff shall be precluded from having access to promote code changes into the production environment. If, due to staffing limitations, this requirement cannot be met by the entity, the internal controls submitted to the Board shall describe what measures will be implemented to ensure the integrity of interactive games in the production environment.

(3) There must be a documented method to verify that test software is not deployed to the production environment.

(4) To prevent leakage of personal identifiable information, there must be a documented method to ensure that raw production data is not used in testing.

(5) All documentation relating to software and application development should be available and retained for the duration of its lifecycle.

§ 810a.7. Changes to game.

A change or modification to an interactive game shall be handled in accordance with the Change Management guidelines issued and distributed to interactive gaming certificate holders, interactive gaming operators and interactive gaming manufacturers.

§ 810a.8. Game rules.

(a) Interactive gaming certificate holders and interactive gaming operators shall adopt and adhere to written, comprehensive house rules governing wagering transactions by and between authorized players that are avail-

able for review at all times by players through a conspicuously displayed link. House rules must include all of the following:

(1) Clear and concise explanation of all fees.

(2) The rules of play of a game.

(3) Any monetary wagering limits.

(4) Any time limits pertaining to the play of a game.

(b) House rules must be approved by the Board.

(c) House rules that deviate from Board regulations shall be submitted to the Board's Office of Gaming Laboratory Operations for review and approval prior to submission to the Board for approval prior to implementation.

§ 810a.9. Fairness.

(a) All critical functions including the generation of the result of any game (and the return to the player) must be generated by the interactive gaming platform and be independent of the player device. All of the following also apply:

(1) Game outcome may not be affected by the effective bandwidth, link utilization, bit error rate or other characteristic of the communications channel between the interactive gaming platform and the player device.

(2) Determination of events of chance that result in a monetary award may not be influenced, affected or controlled by anything other than numerical values derived in an approved manner from the certified random number generator when applicable and in conjunction with the rules of the game.

(3) Each possible permutation or combination of game elements that produces winning or losing game outcomes must be available for random selection at the initiation of each play, unless otherwise denoted by the game.

(4) As game symbols are selected or game outcomes are determined, they must be immediately used as directed by the rules of the game.

(5) When the game requires a sequence or mapping of symbols or outcomes to be set up in advance, the symbols or outcomes should not be resequenced or remapped, except as provided for in the rules of the game.

(6) After selection of the game outcome, the game may not make a variable secondary decision which affects the result shown to the player.

(7) Except as provided by the rules of the game, events of chance within games should be independent and not correlated with any other events within the game or events within the previous game, unless the submission has been approved for a persistent-state outcome determination.

(8) For game types such as a spinning reel game, unless otherwise disclosed to the player, the mathematical probability of a symbol appearing in a position for any game outcome must be constant.

(b) A game may not be designed to give the player a false expectation of better odds by misrepresenting any occurrence or event.

(1) Games that are designed to give the player the perception that they have control over the game due to player skill when they actually do not must fully address this behavior in the game help screens.

(2) The final outcome of each game must be displayed for a sufficient length of time that permits a player to verify the outcome of the game.

§ 810a.10. Prohibitions.

(a) *Forced game play*.

(1) The player may not be forced to play a game just by selecting that game.

(2) It must not be possible to start a new game in the same player interface instance before all relevant meters have been updated on the interactive game system and all other relevant connections and player session balance or, if applicable, the player's total balance has been updated.

(3) If an auto play mode is incorporated, it must be possible to turn this mode off at any time during game play.

(b) *Bots and computerized players*. Bots or computerized players are only permitted when employed by the interactive gaming system in free play or training mode, or if use of the bot or computerized player satisfies all of the following:

(1) The use of artificial intelligence software must be clearly explained in the help menus.

(2) All computerized players must be clearly marked at the tables so that players are aware of which players are not human.

(c) *Incomplete games*. A game is incomplete when the game outcome remains unresolved or the outcome cannot be properly seen by the player.

(1) The interactive gaming certificate holder or interactive gaming operator may provide a mechanism for a player to complete an incomplete game.

(2) Incomplete games shall be resolved before a player is permitted to participate in another instance of the same game.

(3) Wagers associated with an incomplete game must be voided within 30 days and the wagers can be forfeited or returned to the player provided that:

(i) The terms and conditions or the game rules, or both, must clearly define how wagers will be handled when they remain undecided beyond the specified time period and the interactive gaming system must be capable of returning or forfeiting the wagers, as appropriate.

(ii) In the event that a game cannot be continued due to an interactive gaming system action, all wagers must be returned to the players of that game.

(d) *Auto play prohibited*. Game play shall be initiated only after a registered player has affirmatively placed a wager and activated play. An auto play feature is not permitted in game software unless authorized by the Board, and if permitted shall not exceed 50 spins.

§ 810a.11. Controls.

(a) A replay last game feature either as a re-enactment or by description must be available to players. The replay must clearly indicate that it is a replay of the entire previous game cycle, and must provide, at a minimum, all of the following information:

(1) The date and time the game started or ended, or both.

(2) The display associated with the final outcome of the game, either graphically or by a clear text message.

(3) Total player cash/credits at start or end of play, or both.

(4) Total amount bet.

(5) Total cash/credits won for the prize (including progressive jackpots).

(6) The results of any player choices involved in the game outcome.

(7) Results of any intermediate game phases, such as gambles or feature games.

(8) Amount of any promotional awards received, if applicable.

(b) For each individual game played, all of the following information must be recorded, maintained and easily demonstrable by the interactive gaming system:

(1) Unique player ID.

(2) Contributions to progressive jackpot pools, if applicable.

(3) Game status (in progress, complete, and the like).

(4) The table number, if applicable, at which the game was played.

(5) The paytable used.

(6) Game identifier and version.

(c) An organized event that permits a player to either purchase or be awarded the opportunity to engage in competitive play against other players may be permitted providing all of the following rules are met:

(1) While enabled for tournament play, a game may not accept real money from any source, nor pay out real money in any way, but must utilize tournament specific credits, points or chips which have no cash value.

(2) Interactive gaming contest/tournament rules are available to a player on the web site where the interactive gaming contest/tournament is being conducted. The rules must include, at a minimum, all of the following:

(i) All conditions players shall meet to qualify for entry into and advancement through the contest/tournament.

(ii) Any conditions concerning late arrivals or complete tournament no-shows and how auto-blind posting or initial entry purchase, or both, is handled.

(iii) Specific information pertaining to any single contest/tournament, including the amount of money placed in the prize pool.

(iv) The distribution of funds based on specific outcomes.

(v) The name of the organization or person that conducted the contest/tournament on behalf of, or in conjunction with, the operator, if applicable.

(3) The results of each contest/tournament shall be made available on the interactive gaming web site for the players to review. Subsequent to being posted on the web site, the results of each contest/tournament shall be available upon request. The recording must include all of the following:

(i) Name of the event.

(ii) Date of event.

(iii) Total number of entries.

(iv) Amount of entry fees.

(v) Total prize pool.

(vi) Amount paid for each winning category.

(d) All of the following requirements apply to the disabling and re-enabling of gambling on the interactive gaming system:

(1) The interactive gaming system must be able to disable or enable all gambling on command.

(2) When any gambling is disabled or enabled on the interactive gaming system an entry must be made in an audit log that includes the reason for any disable or enable.

(e) When a game or gaming activity is disabled:

(1) The game is not to be accessible to a player once the player's game has fully concluded.

(2) The player should be permitted to conclude the game in play (that is, bonus rounds, double up/gamble and other game features related to the initial game wager should be fully concluded).

(3) If wagers have been placed on pending real-life events:

(i) The terms and conditions must clearly define what happens to the wagers if the gaming activity is to remain disabled and the corresponding real-life event is completed, and the interactive gaming system must be capable of returning all bets to the players or settling all bets, as appropriate.

(ii) The terms and conditions must clearly define what happens to the wagers if the gaming activity is to re-enable before the corresponding real-life event is completed, and the interactive gaming system must be capable of returning all bets to the players, or leaving all bets active, as appropriate.

(f) When one or more feature/bonus prize may be paid to the player, the bonus game must be part of the overall paytable theoretical return to player.

(g) All progressive jackpots must adhere to all of the following:

(1) All players that play progressive jackpot games must be made aware of actions which would make them eligible to win the progressive jackpot.

(2) When progressive jackpot contributions are part of the return to player calculation, the contributions may not be assimilated into revenue. If a cap is established on any progressive jackpot all additional contributions once that cap is reached are to be credited to a diversion pool.

(3) The rules of the game must incorporate how the progressive jackpot is funded and determined.

(4) If a minimum bet amount exists for a player to win a progressive jackpot, then the return to player (excluding the progressive jackpot) must meet the minimum player return in accordance with § 461a.7(a) (relating to slot machine minimum design standards). The calculation of the theoretical payout percentage may not include the amount of any progressive jackpot in excess of the initial reset amount.

(5) The current progressive jackpot amount should be displayed on all player devices participating in the progressive jackpot. This display should be updated on all participating player devices at least every 30 seconds.

(6) The rules of the game must inform the players of any maximum awards or time limits, or both, which may exist for each progressive jackpot.

(7) For progressive jackpots offering multiple levels of awards, the player must always be paid the higher amount if a particular combination is won that should

trigger the higher paying award. This may occur when a winning combination may be evaluated as more than one of the available paytable combinations (that is, a flush is a form of a straight flush and a straight flush is a form of a royal flush). There may be situations when the progressive jackpot levels must be swapped to ensure the player is being awarded the highest possible value based on all combinations the outcome may be defined as.

(8) If multiple progressive jackpots occur at approximately the same time and there is no definitive way of knowing which jackpot occurred first, the operator shall adopt procedures, approved by the Board, for resolution. The rules of the game must include information which addresses the resolution of this possibility.

(9) All progressive jackpots must adhere to standards in §§ 461a.12 and 461a.13 (relating to progressive slot machines; and wide area progressive systems), except for any physical requirements deemed inapplicable by the Board and subject to the following modifications:

(i) Notice of intent to transfer a progressive jackpot must be conspicuously displayed on the interactive game icon and at all times during a gameplay by means of methodology approved by the Board for a period at least 10 days immediately preceding the transfer of the progressive jackpot.

(ii) Within § 461a.12, the term "gaming floor" used regarding land-based progressives shall be analogous to the term "interactive gaming platform" used regarding interactive gaming progressives.

(10) If a progressive jackpot is offered as a personal progressive that only one player contributes to and only that player can win, the player's contributions to the progressive jackpot must be refunded to the player within 30 days if the player's interactive gaming account is closed for any reason.

§ 810a.12. Test accounts.

(a) Interactive gaming certificate holders and interactive gaming operators may establish test accounts to be used to test the various components and operation of an interactive gaming system in accordance with internal controls, which, at a minimum, address all of the following:

(1) The procedures for the issuance of funds used for testing, including the identification of who is authorized to issue the funds and the maximum amount of funds that may be issued.

(2) The procedures for assigning each test account for use by only one person.

(3) The maintenance of a record for all test accounts to include when they are active, to whom they are issued and the employer of the person to whom they are issued.

(4) The procedures for the auditing of testing activity by the interactive gaming certificate holder or interactive gaming operator to ensure the accountability of funds used for testing and proper adjustments to gross interactive gaming revenue.

(5) The ability to withdraw funds from a test account without the Board's prior approval must be disabled by the interactive gaming system.

(6) For testing of peer-to-peer games:

(i) A person may utilize multiple test accounts.

(ii) Test account play shall be conducted without the participation of players.

(b) In addition to the required internal controls in subsection (a)(1)—(6), for any wagering on test accounts conducted outside the boundaries of this Commonwealth, the procedures for auditing of testing activity must include the method for ascertaining the location from which persons using test accounts access the interactive gaming system.

CHAPTER 811a. INTERACTIVE GAMING ACCOUNTING AND INTERNAL CONTROLS

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811a.7. Mandatory interactive gaming system logging.
811a.8. Records/data retention requirements.
811a.9. Required reports; reconciliation.

§ 811a.1. Scope.

To ensure the integrity and security of interactive gaming operations in this Commonwealth, this chapter applies to all interactive gaming certificate holders or interactive gaming operators seeking to offer interactive gaming to registered players in this Commonwealth.

§ 811a.2. Internal controls.

(a) At least 90 days prior to commencing interactive gaming under this part, an interactive gaming certificate holder or interactive gaming operator shall submit to the Board for approval internal controls for all aspects of interactive gaming prior to implementation and any time a change is made thereafter. The internal controls must include detailed procedures for system security, operations, accounting, and reporting of compulsive and problem gamblers.

(b) Notwithstanding subsection (a), the procedures and controls may be implemented by an interactive gaming certificate holder or interactive gaming operator upon the filing of the procedures and controls with the Board. Each procedure or control submission must contain narrative and diagrammatic representations of the system to be utilized and must include all of the following:

(1) Procedures for reliable accounting controls, including the standardization of forms and definition of terms to be utilized in the interactive gaming operations.

(2) Procedures, forms and, when appropriate, formulas to govern all of the following:

(i) Calculation of hold percentages.

(ii) Revenue drops.

(iii) Expense and overhead schedules.

(iv) Complimentary services.

(v) Cash-equivalent transactions.

(3) Job descriptions and the system of personnel and chain of command establishing a diversity of responsibility among employees engaged in interactive gaming operations, including employees of an interactive gaming operator, and identifying primary and secondary management and supervisory positions for areas of responsibility, salary structure and personnel practices.

(4) Procedures for the registration of players and establishment of interactive gaming accounts, including a procedure for authenticating the age, identity and physical address of an applicant for an interactive gaming account and whether the applicant is a person prohibited from establishing or maintaining an account under sec-

tion 13B22 of the act (relating to establishment of interactive gaming accounts).

(5) Procedures for terminating a registered player's interactive gaming account and the return of any funds remaining in the interactive gaming account to the registered player.

(6) Procedures for suspending or terminating a dormant interactive gaming account and the return of any funds remaining in the dormant interactive gaming account to the registered player.

(7) Procedures for the logging in and authentication of a registered player to enable the player to commence interactive gaming and the logging off of the registered player when the player has completed play, including a procedure to automatically log a registered player out of the player's interactive gaming account after a specified period of inactivity.

(8) Procedures for the crediting and debiting of a registered player's interactive gaming account.

(9) Procedures for cashing checks, receiving electronic negotiable instruments, and redeeming chips, tokens or other cash equivalents.

(10) Procedures for withdrawing funds from an interactive gaming account by the registered player.

(11) Procedures for the protection of a registered player's funds, including the segregation of a registered player's funds from operating funds of the interactive gaming certificate holder or interactive gaming operator.

(12) Procedures for recording transactions pertaining to interactive gaming.

(13) Procedures for the security and sharing of personal identifiable information of a registered player, funds in an interactive gaming account and other information as required by the Board. The procedures must include the means by which an interactive gaming certificate holder or interactive gaming operator will provide notice to a registered player related to the sharing of personal identifiable information.

(14) Procedures and security for the calculation and recordation of revenue.

(15) Procedures for the security of interactive gaming devices and associated equipment.

(16) Procedures and security standards as to receipt, handling, and storage of interactive gaming devices and associated equipment.

(17) Procedures and security standards to protect the interactive gaming certificate holder's or interactive gaming operator's interactive gaming skin or interactive gaming web site and interactive gaming devices and associated equipment from hacking or tampering by any person.

(18) Procedures for responding to suspected or actual hacking or tampering with an interactive gaming certificate holder's or interactive gaming operator's interactive gaming skin or interactive gaming web site and interactive gaming devices and associated equipment, including partial or complete suspension of interactive gaming or the suspension of any or all interactive gaming accounts when warranted.

(19) Procedures to verify each registered player's physical location each time a registered player logs into his interactive gaming account and at appropriate intervals thereafter as determined by the Board.

(20) Procedures to ensure that the interactive games are fair and honest and that appropriate measures are in place to deter, detect and, to the extent possible, prevent cheating, including collusion and use of cheating devices, including the use of software programs that make wagers according to algorithms.

(21) Procedures to assist problem and compulsive gamblers, including procedures intended to prevent a person from participating in authorized interactive gaming who is otherwise prohibited from participating in interactive gaming.

(22) Procedures to govern emergencies, including suspected or actual cyber-attacks, hacking or tampering with the interactive gaming certificate holder's interactive gaming skin, interactive gaming platform or interactive gaming web site. The procedures must include the process for the reconciliation or repayment of a registered player's interactive gaming account.

(c) The submission required under subsections (a) and (b) must include a detailed description of the interactive gaming certificate holder's or interactive gaming operator's administrative and accounting procedures related to interactive gaming, including its written system of internal controls. Each written system of internal controls must include all of the following:

(1) An organizational chart depicting appropriate duties and responsibilities of the key employees involved in interactive gaming.

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

(3) The record retention policy of the interactive gaming certificate holder or interactive gaming operator.

(4) The procedure to be utilized to ensure that money generated from the conduct of interactive gaming is safeguarded and accounted for.

(5) 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.

(6) Procedures to be utilized by an employee of an interactive gaming certificate holder or interactive gaming operator in the event of a malfunction of an interactive gaming system or other equipment used in the conduct of interactive gaming.

(7) Procedures to be utilized by the interactive gaming certificate holder or interactive gaming operator to prevent persons under 21 years of age, self-excluded or involuntary excluded individuals, and players outside this Commonwealth, unless otherwise authorized by an interactive gaming reciprocal agreement, from engaging in interactive gaming.

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

(d) Prior to authorizing an interactive gaming certificate holder or interactive gaming operator to commence the conduct of interactive gaming, the Board will review the system of internal controls, security protocols and audit protocols submitted under this chapter to determine whether they conform to the requirements of this chapter and whether they provide adequate and effective controls for the conduct of interactive gaming.

(e) If an interactive gaming certificate holder or interactive gaming operator 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 interactive gaming certificate holder or interactive gaming operator may implement the change or amendment on the 30th calendar day following the filing of a complete submission unless the interactive gaming certificate holder or interactive gaming operator receives written notice tolling the change or amendment in accordance with this chapter or written notice from the Board's Executive Director rejecting the change or amendment.

(f) If during the 30-day review period in this chapter, the Bureau of Gaming Operations preliminarily determines that a procedure in a submission contains an insufficiency likely to negatively affect the integrity of interactive gaming or the control of revenue generated from interactive gaming, the Bureau of Gaming Operations, by written notice to the interactive gaming certificate holder or interactive gaming operator, will:

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

(2) Direct that the 30-calendar day review period in this chapter is to be tolled and that any internal controls at issue not be implemented until approved under this chapter.

(g) Examples of submissions that may contain an insufficiency likely to negatively affect the integrity of interactive gaming may include the following:

(1) Submissions that fail to provide information sufficient to permit the review of interactive gaming activities by the Board, the Bureau, the Department or law enforcement.

(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 and perpetrate a fraud and to conceal the error or fraud in the normal course of the employee's duties.

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

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

(h) Whenever a change or amendment has been tolled under this chapter, the interactive gaming certificate holder or interactive gaming operator may submit a revised change or amendment within 30 days of receipt of the written notice from the Bureau of Gaming Operations. The interactive gaming certificate holder or interactive gaming operator 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 interactive gaming certificate holder or interactive gaming operator receives written notice tolling the change or amendment in accordance with this chapter or written notice from the Board's Executive Director rejecting the change or amendment.

§ 811a.3. Terms and conditions.

(a) An interactive gaming certificate holder or interactive gaming operator shall develop terms and conditions for interactive gaming which must be included in the internal controls. The terms and conditions and any changes thereto shall be acknowledged by the player and the acknowledgment must be date and time-stamped by the interactive gaming system.

(b) The terms and conditions must address all aspects of the interactive gaming operation, including all of the following:

(1) The name of the party with whom the player is entering into a contractual relationship, including any interactive gaming certificate holder or interactive gaming operator.

(2) The player's consent to have the interactive gaming certificate holder or interactive gaming operator confirm the player's age and identity.

(3) Rules and obligations applicable to the player other than rules of the game including all of the following:

(i) Prohibition from allowing any other person to access or use his interactive gaming account.

(ii) Prohibition from engaging in interactive gaming activity, unless the player is physically located in this Commonwealth, unless this gaming is authorized by an interactive gaming reciprocal agreement.

(iii) Consent to the monitoring and recording by the interactive gaming certificate holder, interactive gaming operator or the Board, or all of the above, of any wagering communications and geographic location information.

(iv) Consent to the jurisdiction of this Commonwealth to resolve any disputes arising out of interactive gaming.

(v) Prohibition against utilizing automated computerized software or other equivalent mechanism, such as a bot, to engage in play.

(4) Full explanation of all fees and charges imposed upon a player related to interactive gaming transactions.

(5) Availability of account statements detailing player account activity.

(6) Privacy policies, including information access and use of customer data.

(7) Legal age policy, including a statement that it is a criminal offense to allow a person who is under 21 years of age to participate in interactive gaming and a player who does so must be prohibited from interactive gaming.

(8) Notification that if the player's interactive gaming account remains dormant for 2 year any funds remaining on deposit and any pending wagers shall be forfeited.

(9) The player's right to set responsible gaming limits and self-exclude.

(10) The player's right to suspend his account for no less than 72 hours.

(11) Actions that will be taken in the event a player becomes disconnected from the interactive gaming system during game play.

(12) Notice that a malfunction voids all pays.

(13) Estimated time-period for withdrawal of funds from the interactive gaming account.

(14) Detailed information to be displayed on a player protection page.

(15) Method for changing or retrieving a password or other approved access security feature and the ability to choose strong authentication login protection.

(16) Method for filing a complaint with the interactive gaming certificate holder or interactive gaming operator and method for filing with the Board an unresolved complaint after all reasonable means to resolve the complaint with the interactive gaming certificate holder or interactive gaming operator have been exhausted.

(17) Method for obtaining a copy of the terms and conditions agreed to when establishing an interactive gaming account.

(18) Method for the player to obtain account and game history from the interactive gaming certificate holder or interactive gaming operator.

(19) Notification of Federal prohibitions and restrictions regarding interactive gaming, specifically, any limitations upon interactive gaming in 18 U.S.C.A. § 1084 and the Unlawful Internet Gambling Enforcement Act of 2006 (31 U.S.C.A. §§ 5361—5367). The notice must explicitly state that it is a Federal offense for persons physically located outside of this Commonwealth to engage in interactive wagering through an interactive gaming certificate holder or interactive gaming operator unless explicitly authorized by the Board or an interactive gaming reciprocal agreement.

(20) Any other information required by the Board.

§ 811a.4. Information to be displayed on web site.

Interactive gaming certificate holders and interactive gaming operators shall provide for the prominent display of all of the following information on a page which, by virtue of the construction of the web site, authorized players must access before beginning a gambling session:

(1) The full name of the interactive gaming certificate holder or interactive gaming operator and address from which it carries on business.

(2) A logo, to be provided by the Board, indicating that the interactive gaming certificate holder or interactive gaming operator on behalf of the interactive gaming certificate holder is authorized to operate interactive gaming in this Commonwealth.

(3) The interactive gaming certificate holders and interactive gaming operator's license number.

(4) A statement that persons under 21 years of age are not permitted to engage in interactive gaming.

(5) A statement that persons located in a jurisdiction where interactive gaming is not legal are not permitted to engage in interactive gaming.

(6) Active links to all of the following:

(i) Information explaining how disputes are resolved.

(ii) A problem gambling web site that is designed to offer information pertaining to responsible gaming.

(iii) The Board's web site.

(iv) A web site that allows for an authorized player to choose to be excluded from engaging in interactive gaming.

(v) A link to the house rules adopted by the interactive gaming certificate holder or interactive gaming operator.

§ 811a.5. Segregation of bank accounts and reserve requirements.

(a) An interactive gaming certificate holder or interactive gaming operator shall maintain a bank account for player's funds separate from all other operating accounts to ensure the security of funds held in the player's interactive gaming accounts.

(b) The balance maintained in this account must be greater than or equal to the sum of the daily ending cashable balance of all player interactive gaming accounts, funds on game and pending withdrawals.

(c) An interactive gaming certificate holder or interactive gaming operator shall have unfettered access to all player interactive gaming account and transaction data to ensure the amount held in its independent account is sufficient. An interactive gaming certificate holder's or interactive gaming operator's chief financial officer shall file a quarterly attestation with the Board, unless otherwise directed by the Board, that the funds have been safeguarded under this section.

§ 811a.6. Interactive gaming certificate holder's or interactive gaming operator's organization.

(a) An interactive gaming certificate holder's or interactive gaming operator's systems of internal controls must include organization charts depicting segregation of functions and responsibilities and descriptions of the duties and responsibilities for each position shown on each organization chart. Interactive gaming certificate holders and interactive gaming operators are permitted, except as otherwise provided in this section, to tailor organizational structures to meet the needs or policies of a particular management philosophy. An interactive gaming certificate holder's and interactive gaming operator's organization charts must provide for all of the following:

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

(2) The segregation of incompatible functions, duties and responsibilities so that an employee is not in a position to commit an error and perpetrate a fraud and to conceal the error or fraud in the normal course of the employee's duties.

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

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

(b) In addition to other positions required as part of an interactive gaming certificate holder's or interactive gaming operator's internal controls, an interactive gaming certificate holder, interactive gaming operator, or other licensed entity involved in the operation of the interactive gaming system as approved by the Board, shall maintain an information technology department supervised by an individual licensed as a key employee who functions, for regulatory purposes, as the information technology director. An interactive gaming certificate holder, interactive gaming operator, or other licensed entity involved in the operation of the interactive gaming system as approved by the Board, shall employ an information technology security officer and an interactive gaming manager, both of whom shall be licensed as a key employee.

(c) The information technology director shall be responsible for the integrity of all data, and the quality, reliability and accuracy of all computer systems and software used by the interactive gaming certificate holder in the conduct of interactive gaming, whether the data and software are located within or outside the certificate holder's or interactive gaming operator's facility, including, without limitation, specification of appropriate computer software, hardware and procedures for security, physical integrity, audit and maintenance of all of the following:

(1) Access codes and other computer security controls used to insure appropriately limited access to computer software and data.

(2) Monitoring logs of user access, security incidents and unusual transactions.

(3) Logs used to document and maintain the details of any hardware and software modifications.

(4) Computer tapes, disks or other electronic storage media containing data relevant to interactive gaming operations.

(5) Computer hardware, communications equipment and software used in the conduct of interactive gaming.

(d) The information technology security officer, or other position as approved by the Board, shall report to the information technology director and be responsible for all of the following:

(1) Maintaining access codes and other computer security controls used to insure appropriately limited access to computer software and data.

(2) Reviewing logs of user access, security incidents and unusual transactions.

(3) Coordinating the development of the interactive gaming certificate holder's or interactive gaming operator's information security policies, standards and procedures.

(4) Coordinating the development of an education and training program on information security and privacy matters for employees and other authorized users.

(5) Ensuring compliance with all State and Federal information security policies and rules.

(6) Preparing and maintaining security-related reports and data.

(7) Working with internal and external audit personnel to ensure all findings are addressed in a timely and effective manner.

(8) Developing and implementing an Incident Reporting and Response System to address security breaches, policy violations and complaints from external parties.

(9) Serving as the official contact for information security and data privacy issues, including reporting to law enforcement.

(10) Developing and implementing an ongoing risk assessment program that targets information security and privacy matters by identifying methods for vulnerability detection and remediation and overseeing the testing of those methods.

(11) Remaining current with the latest information technology security and privacy legislation, rules, advisories, alerts and vulnerabilities to ensure the interactive gaming certificate holder's or interactive gaming operator's security program and security software is effective.

(e) The interactive gaming manager shall report to the information technology director, or other department manager as approved by the Board, and be responsible for ensuring the proper operation and integrity of interactive gaming and reviewing all reports of suspicious behavior. The interactive gaming manager shall immediately notify the Bureau upon detecting any person participating in interactive wagering who is:

(1) Engaging in or attempting to engage in, or who is reasonably suspected of cheating, theft, embezzlement, collusion, money laundering or any other illegal activities.

(2) A self-excluded person under the act and Board regulations.

(3) Prohibited by the interactive gaming certificate-holder or interactive gaming operator from interactive gaming.

§ 811a.7. Mandatory interactive gaming system logging.

(a) An interactive gaming system must employ a mechanism capable of maintaining a separate copy of the information required to be logged under this chapter on a separate and independent logging device capable of being administered by an employee with no incompatible function. If the interactive gaming system can be configured so that any logged data is in a secure transaction file, a separate logging device is not required.

(b) An interactive gaming system must provide a mechanism for the Board to query and export, in a format required by the Board, all gaming system data.

(c) An interactive gaming system must electronically log the date and time any interactive gaming account is created or terminated (Account Creation Log).

(d) An interactive gaming system must maintain all information necessary to recreate player game play and account activity during each player session, including any identity or location verifications, for no less than 10 years.

(e) Unless otherwise authorized by the Board, when software is installed on or removed from an interactive gaming system, the action must be recorded in a secure electronic log (Software Installation/Removal Log), which must include all of the following:

(1) The date and time of the action.

(2) The identification of the software.

(3) The identity of the person performing the action.

(f) Unless otherwise authorized by the Board, when a change in the availability of game software is made on a gaming system, the change must be recorded in a secure electronic log (Game Availability Log), which must include all of the following:

(1) The date and time of the change.

(2) The identification of the software.

(3) The identity of the person performing the change.

(g) Unless otherwise exempted by the Board, an interactive gaming system must record all promotional offers (Promotions Log) issued through the system. The Promotions Log must provide the information necessary to audit compliance with the terms and conditions of current and previous offers.

(h) Results of all authentication attempts must be retained in an electronic log (Authentication Log) and accessible for 90 days.

(i) All adjustments to gaming system data made using stored procedures must be recorded in an electronic log (Adjustments Log), which lists all of the following:

(1) The date and time.

(2) The identification and user ID of user performing the action.

(3) A description of the event or action taken.

(4) The initial and ending values of any data altered as a part of the event or action performed.

§ 811a.8. Records/data retention requirements.

(a) For the purposes of this section, "books, records and documents" means any book, record or document pertaining to, prepared in or generated by the operation of the interactive gaming certificate holder or interactive gaming operator including all forms, reports, accounting

records, ledgers, subsidiary records, computer generated data, internal audit records, correspondence and personnel records required to be generated and maintained under this part. This definition applies without regard to the medium through which the record is generated or maintained (for example, paper, magnetic media or encoded disk).

(b) Original books, records and documents pertaining to the operation of interactive gaming must be:

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

(2) Retained in a secure location by the interactive gaming certificate holder or interactive gaming operator that is equipped with a fire suppression system or at another location approved under subsection (d).

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

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

(5) Destroyed only after expiration of the minimum retention period specified in subsection (c), except that the Board may, upon the written request of an interactive gaming certificate holder or interactive gaming operator and for good cause shown, permit the destruction at an earlier date.

(c) Original books, records and documents shall be retained by an interactive gaming certificate holder or interactive gaming operator for a minimum of 5 years.

(d) An interactive gaming certificate holder or interactive gaming operator may request, in writing, that the Board's Executive Director approve an alternative location outside of this Commonwealth to store original books, records and documents. The request must include all of the following:

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

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

(e) An interactive gaming certificate holder or interactive gaming operator may request, in writing, that the Board's Executive Director approve a microfilm, microfiche or other suitable media system for the copying and storage of original books, records and documents. The request must include representations regarding all of the following:

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

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

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

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

(f) Nothing herein shall be construed as relieving an interactive gaming certificate holder or interactive gaming operator from meeting any obligation to prepare or maintain any book, record or document required by any other Federal, State or local governmental body, authority or agency.

§ 811a.9. Required reports; reconciliation.

(a) An interactive gaming system shall be designed to generate reports as specified by the Board that must include, at a minimum, all of the following:

(1) The report title.

(2) The version number of the current system software and report definition.

(3) The date or time period of activity, or description as of a point in time.

(4) The date and time the report was generated.

(5) Page numbering, indicating the current page and total number of pages.

(6) Subtotals and grand totals as required by the Department.

(7) A description of any filters applied to the data presented in the document.

(8) Column and row titles, if applicable.

(9) The name of the interactive gaming certificateholder or interactive gaming operator.

(10) A reconciliation of all relevant data contained therein, if applicable.

(b) All required reports must be generated by the interactive gaming system, even if the period specified contains no data to be presented. The report generated must indicate all required information and contain an indication of "No Activity" or similar message if no data appears for the period specified.

(c) An interactive gaming system must provide a mechanism to export the data generated for any report to a format approved by the Board.

(d) An interactive gaming system must generate all of the following daily reports, at a minimum, for each gaming day to calculate the taxable revenue:

(1) A Player Account Summary Report, which must include transaction information for each player account and test account for all of the following categories:

(i) Beginning balance.

(ii) Total amount of deposits.

(iii) Total amount of noncashable bonuses deposited.

(iv) Total amount of noncashable bonuses wagered by game type (sports, slots and tables).

(v) Total amount of noncashable bonuses expired.

(vi) Total amount of transfers to games by game type (sports, slots and tables).

(vii) Total amount of transfers from games by game type (sports, slots and tables).

(viii) Total amount of withdrawals.

(ix) Total amount of funds on game at the beginning of the gaming day (the amount of pending wagers at the end of the prior gaming day).

(x) Total amount of funds on game at the end of the gaming day (the amount of pending wagers plus funds transferred to a game but not yet wagered).

(xi) Win or loss, calculated as the ending funds on games less the beginning funds on game.

(xii) Ending balance.

(xiii) Any other information that may be required by the Board.

(2) A Wagering Summary Report, which must include all of the following by authorized game and poker variation, as applicable:

(i) Total amounts wagered.

(ii) Total amounts won.

(iii) Total tournament entry or participation fees.

(iv) Rake or vigorish.

(v) Total amounts of guaranteed funds paid to players.

(vi) Total amounts due to or from an interactive gaming network.

(vii) Win or loss calculated as the net of the total amounts wagered and total amounts won plus tournament entry fees, rake or vigorish, guaranteed funds and amounts due to or from an interactive gaming network.

(viii) Any other information that may be required by the Board.

(3) A noncashable Promotional Account Balance Report, which must include the ending noncashable promotional balance in each player account.

(e) An interactive gaming network must generate the following daily reports for each participating interactive gaming certificate holder or interactive gaming operator, at a minimum, for each gaming day to reconcile the daily gross interactive gaming revenue:

(1) A System Player Account Summary Report, which must include all of the following transaction information for each player account:

(i) Player identification number.

(ii) Total amount of transfers to games.

(iii) Total amount of transfers from games.

(iv) Win or loss statistics.

(v) Total amount of rake.

(vi) Total amount of entry fees.

(2) A System Wagering Summary Report, which must include all of the following game activity by authorized game or poker variation:

(i) Total amounts wagered.

(ii) Total amounts won.

(iii) Total tournament entry or participation fees.

(iv) Rake or vigorish.

(v) Total amounts of guaranteed funds paid to players.

(vi) Win or loss statistics, calculated as the net of the total amounts wagered and total amounts won plus tournament entry fees, rake or vigorish, and guaranteed funds.

(f) An interactive gaming certificate holder or interactive gaming operator must utilize the Wagering Summary Report to calculate interactive gross gaming revenue on a daily basis for reporting purposes. In addition, the certificate holder or operator shall do all of the following:

(1) Prepare a Variance Report documenting the win/loss amounts from the Player Account Report and Wagering Summary Report.

(2) Calculate the variance between the two amounts.

(3) Document the reason for the variance.

(4) Report a manual adjustment to increase revenue by the amount of the variance whenever the total of the Player Account Summary Report is greater than the total of the Wagering Summary Report, unless the reason for the variance as documented above is sufficient to support a determination that revenue was properly reported.

(g) Instead of subsection (f), an interactive gaming certificate holder or interactive gaming operator may accumulate the daily Variance Report information on a monthly Variance Report in a manner described in the interactive gaming certificate holder's or interactive gaming operator's internal controls.

(h) An interactive gaming system must generate, on a daily basis commencing 2 years after the creation of the first interactive gaming account, a Dormant Account Report, which must list all player accounts including the Pending Wager Account Report that have not had activity for 2 years. The report must include all of the following:

(1) The player name and account number.

(2) The date of the last transaction.

(3) The account balance.

(i) Voids of completed wagering transactions may not occur without Board approval.

(j) An interactive gaming system must generate a Performance Report, which compares the theoretical return to player (RTP) to the actual RTP of each game offered by a gaming system. The report must also provide the total number of rounds of play for each game and shall be generated and reviewed monthly by the interactive gaming certificate holder or interactive gaming operator to evaluate the performance of all games offered to the public. The Performance Report must include the data required by this subsection from the first day interactive gaming was offered to the date of the report.

(k) An interactive gaming system must generate a Player Account Adjustments Report, which shall be reviewed on a daily basis by either the interactive gaming certificate holder or interactive gaming operator to evaluate the legitimacy of player account adjustments. If the daily review is performed by the interactive gaming operator, the interactive gaming certificate holder or interactive gaming operator shall conduct a weekly review of the Player Account Adjustment Reports. Unless otherwise authorized by the Board, the report must, at a minimum, include all of the following:

(1) The player's name.

(2) An account number.

(3) The date and time of the adjustment.

(4) The person who performed the adjustment.

(5) The reason for the adjustment.

(6) The amount of the adjustment.

(l) An interactive gaming system must generate a report on a weekly basis identifying potential compulsive and problem gamblers, including those players who self-report. The interactive gaming certificate holder or interactive gaming operator shall review the report and document any action taken.

(m) An interactive gaming system must be capable of generating a Pending Transaction Account Report, which must include and separately itemize all pending transactions for each player account, including funds on game and deposits and withdrawals not yet cleared.

(n) An interactive gaming certificate holder or interactive gaming operator shall develop internal controls for performing a daily reconciliation of gross interactive gaming revenue, including a daily reconciliation of the Player Account Summary Report to the Wagering Summary Report, a reconciliation of the Wagering Summary Report to each remote game server, a reconciliation of sports wagering system reports to the wagering Summary Report, and at least a quarterly calculation of the balance required to be maintained pursuant to § 811a.5 (relating to segregation of bank accounts and reserve requirements).

(i) Each report shall be accurate to reconcile and balance on a daily basis.

(ii) Variances shall be investigated and reported to the Board, which must include the amount, cause and remediation plan for corrective action.

CHAPTER 812a. INTERACTIVE GAMING PLAYER ACCOUNTS

Sec.
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§ 812a.1. Definitions.

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

Electronic identifier—A unique identifier, such as a username or account number, other than personal identifying information (for example, a Social Security number), used to identify a player.

Player session—A player session consists of all activities and communications performed by an authorized registered player and the interactive gaming system between the time the registered player logs in to the interactive gaming system and the time the registered player logs out or is logged out of the interactive gaming system.

Strong authentication—A method that is intrinsically stringent enough to ensure the security of the system it protects by withstanding any attacks it is likely to encounter by combining at least two mutually-independent factors so that the compromise of one method should not lead to the compromise of the second and includes one nonreusable element, which cannot easily be reproduced or stolen from the Internet, to verify the identity of a registered player.

§ 812a.2. Player account registration.

(a) Prior to engaging in interactive gaming, a player shall establish an interactive gaming account.

(b) To establish an interactive gaming account, the player shall provide all of the following information:

(1) The player's legal name.

(2) The player's date of birth.

(3) The entire or last four digits of the player's Social Security number, if voluntarily provided, or equivalent for a foreign player such as a passport or taxpayer identification number.

(4) The player's address.

(5) The player's e-mail address.

(6) The player's telephone number.

(7) Any other information collected from the player to verify his identity.

(c) An interactive gaming certificate holder or interactive gaming operator shall create and maintain an electronic player file containing the information the player submitted to establish the player account.

(d) The electronic player file created by an interactive gaming certificate holder or interactive gaming operator must encrypt the information in an electronic player file.

(i) As part of the annual security audit required under § 809a.6(d)(3), the independent third party shall verify that the information included contained in the electronic player files maintained by the interactive gaming certificate holder or interactive gaming operator is properly encrypted.

(e) The interactive gaming certificate holder or interactive gaming operator shall verify the player's identity and record the document number of the government-issued credential examined, or other methodology for remote, multisourced authentication, which may include third-party and governmental databases, as approved by the Board.

(f) The interactive gaming certificate holder or interactive gaming operator shall verify that the player is of the legal age of 21 years of age, not self-excluded or otherwise prohibited from participation in interactive gaming.

(g) The interactive gaming certificate holder or interactive gaming operator shall require the player to affirm that the information provided to the interactive gaming certificate holder is accurate.

(h) The interactive gaming certificate holder or interactive gaming operator shall record the player's acceptance of the interactive gaming certificate holder's terms and conditions to participate in interactive gaming.

(i) The interactive gaming certificate holder or interactive gaming operator shall record the player's acknowledgement that the legal age for interactive gaming is 21 years of age and that he is prohibited from allowing any other person to access or use his interactive gaming account.

(j) The interactive gaming certificate holder or interactive gaming operator shall record the player's acknowledgement that any violations of the interactive gaming regulations are subject to the penalties provided in the act and may result in criminal prosecution under 18 Pa.C.S. (relating to Crimes Code).

(k) The interactive gaming certificate holder or interactive gaming operator shall require the player to establish

a password or other access security feature as approved by the Board and advise the player of the ability to utilize strong authentication login protection.

(l) The interactive gaming certificate holder or interactive gaming operator shall notify the player of the establishment of the account by e-mail or first class mail.

§ 812a.3. Account security.

(a) An interactive gaming system must utilize sufficient security to ensure player access is appropriately limited to the registered account holder. Unless otherwise authorized by the Board, security measures must include, at a minimum, all of the following:

(1) A username.

(2) A password of sufficient length and complexity to ensure its effectiveness.

(3) Upon account creation, the option for users to choose strong authentication login protection.

(4) When a player logs into his registered interactive gaming account, the system must display the date and time of the player's previous log on.

(5) An option to permit a player to elect to receive an electronic notification to the player's registered e-mail address, cellular phone or other device each time an interactive gaming account is accessed.

(6) The interactive gaming system must require a player to re-enter his username and password after 15 minutes of user inactivity.

(b) An interactive gaming certificate holder or interactive gaming operator may not permit the creation of anonymous interactive gaming accounts or accounts using fictitious names. A registered player may, while engaged in interactive gaming, represent himself using a screen name other than his actual name.

(c) An interactive gaming system must provide an account statement with account details to a player on demand, either displayed on the interactive gaming web site or mobile app or available for immediate download, which must include information as required under this chapter.

(d) An interactive gaming system must utilize sufficient security to ensure third-party access to player accounts is limited as follows:

(1) Network shared drives containing application files and data for interactive gaming system must be secured so that only authorized personnel may gain access.

(2) Login accounts and passwords required to administer network and other equipment are secured so that only authorized Information Technology (IT) personnel from the interactive gaming certificate holder or interactive gaming operator may gain access to these devices.

(3) Remote access by vendor personnel to any component of the interactive gaming system is allowed for purposes of support or updates and is enabled only when approved by authorized IT personnel employed by the technology provider.

(e) Interactive gaming certificate holders and interactive gaming operators may utilize third-party vendors to verify player information so long as those vendors are licensed by the Board when required and the agreements related to the provided services is submitted to the Board.

§ 812a.4. Single account requirement.

(a) A player shall have only one interactive gaming account for each interactive gaming certificate holder or interactive gaming operator. Each interactive gaming account must be nontransferable, unique to the player who establishes the account, and distinct from any other account number that the player may have established with the interactive gaming certificate holder or interactive gaming operator for noninteractive gaming activity.

(b) Each registered player account shall be treated independently and players may not be permitted to transfer funds between accounts held with different interactive gaming certificate holders or interactive gaming operators. Registered players are prohibited from transferring funds to an account held by another player.

(c) To ensure compliance with this subpart, interactive gaming certificate holders and interactive gaming operators shall:

(1) Record and maintain the physical location of the registered player while logged in to the interactive gaming account.

(2) Ensure that a registered player does not occupy more than one position at a game at any given time unless otherwise approved by the Board to permit a registered player to occupy more than one position at a game at any given time.

§ 812a.5. Account terms and conditions disclosures.

(a) During the registration process the player shall agree to the terms and conditions which govern the relationship between the interactive gaming certificate holder or interactive gaming operator and the player. The terms and conditions must include a privacy policy which governs the protection and use of the player's data.

(b) The terms and conditions provided to players by interactive gaming certificate holders and interactive gaming operators shall be submitted to the Bureau of Gaming Operations for review. The terms and conditions must contain, at minimum, all of the following:

(1) The name and address of the interactive gaming certificate holder or interactive gaming operator.

(2) A statement that the interactive gaming certificate holder or interactive gaming operator is licensed and regulated by the Board for the purposes of operating and offering interactive gaming services in this Commonwealth.

(3) A requirement that the player acknowledges that he has read the terms and conditions and agrees to be bound by them.

(4) A requirement that the player will comply with all applicable laws, statutes and regulations.

(5) A statement that no individual under 21 years of age may participate in interactive gaming and that it is a criminal offense to allow a person who is not legally of age to participate in interactive gaming in this Commonwealth.

(6) A statement that the player consents to verification of registration information including name, address, date of birth, Social Security number, passport identification (for non-United States residents) and any other identification information required to confirm age and identity.

(7) A statement that the player consents to verification of his location for the duration of play of interactive games.

(8) A statement that players have the right to set responsible gaming limits and to self-exclude from interactive gaming.

(9) A dispute resolution policy including notifying players of their right to file a complaint with the Board.

(10) A player disconnection policy.

(11) Any other information that may be required by the Board.

§ 812a.6. Self-exclusion list.

(a) All interactive gaming certificate holders and interactive gaming operators shall have a link on its interactive gaming web site to the self-exclusion page of the Board web site.

(b) Any player seeking to self-exclude from interactive gaming shall follow the procedures in the Board's regulations.

§ 812a.7. Player funding of accounts.

(a) A player's interactive gaming account may be funded through the use of all of the following:

(1) Cash deposits made directly with the interactive gaming certificate holder or interactive gaming operator.

(2) Personal checks, cashier's checks, wire transfer and money order deposits made directly or mailed to the interactive gaming certificate holder or interactive gaming operator.

(3) A player's credit card or debit card, including prepaid cards.

(4) A player's deposit of cash, gaming vouchers or gaming chips at a cashiering location approved by the Board.

(5) A player's reloadable prepaid card, which has been verified as being issued to the player and is nontransferable.

(6) Cash complimentaries, promotional credits or bonus credits.

(7) Winnings.

(8) Automated clearing house (ACH) transfer, provided that the interactive gaming certificate holder or interactive gaming operator has security measures and controls to prevent ACH fraud. A failed ACH deposit attempt may not be considered fraudulent if the player has successfully deposited funds through an ACH transfer on a previous occasion with no outstanding chargebacks. If the interactive gaming certificate holder or interactive gaming operator suspects fraud after multiple failed ACH deposit attempts, the interactive gaming certificate holder or interactive gaming operator may temporarily freeze or suspend the player's account to investigate and, if the interactive gaming certificate holder or interactive gaming operator determines that fraud has occurred, suspend the player's account.

(9) Adjustments made by the interactive gaming certificate holder or interactive gaming operator following the resolution of disputes provided there is documented notification to the player.

(10) Any other means as approved by the Board.

(b) An interactive gaming certificate holder or interactive gaming operator shall neither extend credit to a player nor allow the deposit of funds into an interactive gaming account that are derived from the extension of credit by affiliates or agents of the interactive gaming certificate holder or interactive gaming operator.

(c) A player's interactive gaming account may not have a negative account balance as a result of the placement of any wager in the interactive gaming system.

(d) Player account balances must be updated after each game cycle to ensure that sufficient funds are available for any future real money games the player may choose to play.

(e) Interactive gaming certificate holders or interactive gaming operators shall not accept or facilitate a wager:

(1) On any interactive game not approved by the Board for play in this Commonwealth.

(2) On any interactive game which the certificate holder or operator knows or reasonably should know is not between individuals.

(3) On any interactive game which the certificate holder or operator knows or reasonably should know is made by a person who has elected to temporarily suspend his or her interactive gaming account and the period of temporary suspension has not expired.

(4) On any interactive game which the certificate holder or operator knows or reasonably should know is made by a person on the interactive gaming self-exclusion list or the Board's involuntary exclusion list as it pertains to interactive gaming.

(5) From a person who the interactive gaming certificate holder or interactive gaming operator knows or reasonably should know is placing the wager in violation of State or Federal law.

(6) From any licensed individual who is not permitted to participate in interactive gaming by virtue of his position with an interactive gaming certificate holder, interactive gaming operator or other affiliated entity.

(f) All adjustments to interactive gaming accounts for amounts of $500 or under shall be periodically reviewed by supervisory personnel as set forth in the interactive gaming certificate holder's or interactive gaming operator's internal controls. All other adjustments shall be authorized by supervisory personnel prior to being entered.

§ 812a.8. Player loyalty programs.

If player loyalty programs are supported by an interactive gaming system, all of the following must apply:

(1) Redemption of registered player loyalty points earned must be by a secure transaction that automatically debits the points balance for the value of the prize redeemed.

(2) All registered player loyalty database transactions are to be recorded by the interactive gaming system. If the player loyalty program is provided by an external service provider, the interactive gaming system must be capable of securely communicating with that service.

(3) The interactive gaming system must make readily accessible to the registered player all terms and conditions governing each available promotional or bonus feature.

(4) The terms and conditions must be clear and unambiguous, especially when bonuses or promotions are limited to certain tables or nontournament play, or when other specific conditions apply.

§ 812a.9. Player account controls.

(a) A player session is started when a player logs in to the interactive gaming system.

(1) A player must be provided with the electronic identifier created by the interactive gaming certificate holder or interactive gaming operator, if applicable, and a password to start a session.

(2) The interactive gaming system must allow players to change their passwords.

(3) When a player has forgotten his password or PIN, the interactive gaming system must provide a secure process for the reauthentication of the player and the retrieval or resetting, or both, of the password or PIN. Processes for dealing with lost player user IDs or passwords must be clearly described to the player.

(4) When a player logs in to the interactive gaming system, the date and time of his prior player session must be displayed.

(5) Each player session must have a unique identifier assigned by the interactive gaming system which distinguishes the current session from previous and future sessions.

(b) During a peer-to-peer game, the software must permit a player to set an away from computer status (that is, self-imposed session inactivity). This functionality must be fully described in the help screens or applicable terms and conditions.

(1) The away from computer status must disallow all play and also cause the player's turn to be automatically skipped during any round of play which takes place while this status is active.

(2) If a player sets an away from computer status during the middle of a round of play, he automatically forfeits play for that round (for example, for a round of poker, the software must automatically fold the player's hand during the next round of betting).

(3) If a player performs any game action within the game window while in an away from computer status, the status must be removed and the player will be enrolled into the next round of play. Nongame sensitive actions, such as accessing the help menu from the game window do not require this status to be removed.

(4) If action has not been taken by the player within the time period specified in the help screens or the terms and conditions, or both, the player must be automatically placed into the away from computer status.

(5) If a player has been in the away from computer status for over 30 minutes, the player must be automatically logged out of the game or player account, or both.

(c) Interactive gaming systems must employ a mechanism that detects session inactivity and terminates a player session when applicable.

(1) If the interactive gaming system fails to receive a response from the interactive gaming device within 30 minutes, whether the player has been in away from computer mode or not, the interactive gaming system must implement a user inactivity timeout and terminate the player session.

(2) If a player session is terminated due to player inactivity timeout, the interactive gaming device must display to the player the player session termination (that is, the user inactivity timeout) upon the player's next attempted action on the interactive gaming system.

(3) Further game play is not permitted until the interactive gaming system and the interactive gaming device establish a new session.

(d) A player session ends when:

(1) The player notifies the interactive gaming system that the session is finished (for example, logs out).

(2) A session inactivity timeout is reached.

(3) The interactive gaming system terminates the session.

(i) When the interactive gaming system terminates a player session, a record must be written to an audit file that includes the termination reason.

(ii) The interactive gaming system must attempt to send a session finished message to the interactive gaming device each time a session is terminated by the interactive gaming system.

(e) The Board's Responsible Gaming logo linking to a responsible gaming page shall be placed at the top of the interactive gaming web site. The responsible gaming page must contain, at a minimum, all of the following:

(1) Information about potential risks associated with gambling and where to get help for a gambling problem.

(2) A list of the responsible gaming measures that can be invoked by the player, such as player session time limits and bet limits, and an option to enable the player to invoke those measures.

(3) Mechanisms which detect unauthorized use of the player's account, such as observing the Last Log in Time Display, the IP address of the last login and reviewing financial account information.

(4) A link to the terms and conditions that the player agreed to be bound to by entering and playing on the site.

(5) A link to the applicable privacy policy.

(6) A link to Board's web site.

(f) All links to player protection services (for example, self-exclusion and other player-imposed limits) provided by third parties are to be tested by the interactive gaming certificate holder or interactive gaming operator periodically as required by the Board. Game play may not occur when links used to supply information on player protection services are not displayed or are not operational. When the link to player protection services is no longer available, the interactive gaming certificate holder or interactive gaming operator shall provide an alternative support service.

(g) Players must be provided with a clear mechanism to impose self-limitations for gaming parameters including deposits, wagers, losses and player session durations as required by the Board. The self-limitation mechanism must provide all of the following functionality:

(1) Any decrease to self-limitations for gaming must be effective no later than the player's next login. Any increase to these limits must become effective only after the time-period of the previous limit has expired and the player reaffirms the requested increase.

(i) For example, a player sets a $1,000 monthly deposit limit on the 1st day of the month. The player may not increase this limit to more than $1,000 until the 1st day of the following month. The same player may decrease the limit to less than $1,000 at any point, and shall be effective at the player's next login.

(2) A deposit limit as determined by the player must be offered on a daily, weekly and monthly basis, and must specify the maximum amount of money a player may deposit into his interactive gaming account during the designated period of time.

(3) A spend limit as determined by the player must be offered on a daily, weekly and monthly basis, and must specify the maximum amount of player deposits that may be put at risk during a designated period of time.

(4) A single wager limit as determined by the player must be offered and must specify the maximum amount of any single wager a player may put at risk in a single wager in an interactive game.

(i) This single wager limit is not applicable for peer-to-peer poker games offered by interactive gaming certificate holders or operators.

(ii) Notwithstanding the provisions of paragraph (1), a requested increase in the player's single wager limit (that is, from $50 to $100) shall not take effect for 24 hours after the request is made.

(5) A time-based limit as determined by the player must be offered on a daily basis and must specify the maximum amount of time that a player may spend playing on an interactive gaming system, provided that if the time-based limit is reached a player will be permitted to complete any round of play, or active or prepaid tournament.

(6) A table limit as determined by the player must be offered and must specify the maximum amount a registered player may bring to a peer-to-peer interactive gaming table.

(7) The self-limitations set by a player may not override any system imposed limitations or contradict information within the game rules.

(h) The interactive gaming system must be capable of applying system-imposed limits as required by the terms and conditions agreed to by the player upon registration and as required by the Board. System-imposed limits must adhere to all of the following:

(1) Players must be notified in advance of any system-imposed limits and their effective dates.

(2) Once updated, system-imposed limits must be consistent with what is disclosed to the player.

(3) Upon receiving any system-limitation request, the interactive gaming system must ensure that all specified limits are correctly implemented immediately or at a specified time (that is, next login, next day, and the like) that was clearly indicated to the player.

(4) In cases when system-imposed limitation values (for example, deposit, wager, loss and player session duration) are greater than self-imposed player limit values, the system-imposed limitations must take priority.

(i) Players must be provided with an easy and obvious mechanism to temporarily suspend his or her interactive gaming account. The temporary suspension mechanism must provide all of the following functionality:

(1) The player must be provided with the option to temporarily suspended his or her interactive gaming account for a specified period of time as defined in the terms and conditions, or indefinitely.

(2) In the case of temporary suspension, the interactive gaming system must ensure that:

(i) Immediately upon processing the temporary suspension, new bets or deposits are not accepted from that player until the temporary suspension has expired.

(ii) During the temporary suspension period, the player is not prevented from withdrawing any or all of his account balance, provided that the interactive gaming system acknowledges that the funds have cleared.

(iii) In the case of indefinite temporary suspension, the interactive gaming system must ensure that:

(A) The player is paid in full for his account balance, provided that the interactive gaming system acknowledges that the funds have cleared.

(B) All player accounts must be closed or deactivated.

(j) The interactive gaming system must provide a clear mechanism to advise the player of the right to make a complaint against the interactive gaming certificate holder, interactive gaming operator or another player (that is, when collusion is suspected or when a player is disruptive or abusive).

§ 812a.10. Player withdrawals.

(a) An interactive gaming certificate holder or interactive gaming operator shall establish protocols for players to withdraw funds, whether an interactive gaming account is open or closed.

(b) An interactive gaming certificate holder or interactive gaming operator shall prevent unauthorized withdrawals from an interactive gaming account.

(c) Funds may be withdrawn from a player's interactive gaming account for all of the following:

(1) The funding of game play.

(2) A cash-out at the cashier's cage upon player's request.

(3) A cash-out through the issuance of a check from the interactive gaming certificate holder or interactive gaming operator.

(4) A cash-out transfer to a player's reloadable prepaid cash card, which has been verified as being issued to the player and is nontransferable.

(5) Adjustments made by the interactive gaming certificate holder or interactive gaming operator following the resolution of disputes provided there is documented notification to the player.

(6) Cash-out transfers directly to the player's individual account with a bank or other financial institution (banking account) provided that the interactive gaming certificate holder or interactive gaming operator verifies the validity of the account with the financial institution.

(7) Any other means approved by the Board.

(d) An interactive gaming certificate holder or interactive gaming operator may not permit a player to transfer funds to another player.

§ 812a.11. Player account statements.

(a) At the request of a player, interactive gaming systems must provide an interactive gaming account statement which must include detailed account activity for at least the 6 months preceding the request. In addition, an interactive gaming system must, upon request, be capable of providing a summary statement of all player activity during the past year. Information to be provided on the summary statement must include, at a minimum, all of the following:

(1) Deposits to the interactive gaming account.

(2) Withdrawals from the interactive gaming account.

(3) Win or loss statistics.

(4) Beginning and ending account balances.

(5) Self-imposed responsible gaming limit history, if applicable.

(b) Account statements must be either displayed on the interactive gaming web site or mobile app or available for

immediate download, or if requested by the player, sent to the player's registered address (e-mail or first class) for the time period specified.

§ 812a.12. Suspended accounts.

(a) Interactive gaming systems must employ a mechanism to place an interactive gaming account in a suspended mode:

(1) When requested by the player for a specified period of time, which may not be less than 72 hours.

(2) When required by the Board.

(3) When initiated by an interactive gaming certificate holder or interactive gaming operator that has evidence to indicate any of the following:

(i) Illegal activity.

(ii) A negative player account balance.

(iii) A violation of the terms of service has taken place on an authorized registered player's interactive gaming account.

(b) When an interactive gaming account is in a suspended mode, the interactive gaming certificate holder or interactive gaming operator may not remove funds from the account without prior approval from the Board. In addition, the interactive gaming system must do all of the following:

(1) Prevent the player from engaging in interactive gaming.

(2) Prevent the player from depositing funds.

(3) Prevent the player from withdrawing funds from his interactive gaming account, unless the suspended mode was initiated by the player.

(4) Prevent the player from making changes to his interactive gaming account.

(5) Prevent the removal of the interactive gaming account from the interactive gaming system.

(6) Prominently display to the authorized player that the account is in a suspended mode, the restrictions placed on the account and any further course of action needed to remove the suspended mode.

(c) An interactive gaming certificate holder or interactive gaming operator shall notify the player by mail (first class or e-mail) whenever his interactive gaming account has been closed or placed in a suspended mode. The notification must include the restrictions placed on the account and any further course of action needed to remove the restriction.

(d) A suspended account may be restored:

(1) Upon expiration of the time period established by the player.

(2) When permission is granted by the Board.

(3) When the interactive gaming certificate holder or interactive gaming operator has lifted the suspended status.

§ 812a.13. Dormant accounts.

(a) An interactive gaming account will be deemed dormant if there is no activity (logins, game play, withdrawals, contacts with customer service) for 2 years.

(b) Interactive gaming certificate holders and interactive gaming operators shall provide notification to the player at the player's registered address (physical or electronic) if the player's interactive gaming account remains dormant for 1 year.

(c) Funds remaining on deposit in an interactive gaming account which is dormant and for which the player has not requested payment must be abandoned 60 days after the notice in subsection (b) is provided. Interactive gaming certificate holders and interactive gaming operators shall report abandoned funds from dormant accounts in accordance with rules and regulations on abandoned and unclaimed property set forth by the Pennsylvania Treasury, Bureau of Abandoned and Unclaimed Property.

§ 812a.14. Use of player data.

(a) An interactive gaming certificate holder, interactive gaming operator, or an employee or other person engaged in duties related to the conduct of interactive gaming may not disclose information about the name of a player, or other identifying information.

(b) Interactive gaming certificate holders or interactive gaming operators with employees who have direct contact with players by phone, e-mail, electronic chat or other means shall implement training for those employees, at the start of their employment and at regular intervals thereafter, addressing recognition of the nature and symptoms of problem gambling behavior and how to assist players in obtaining information regarding help for a gambling problem and self-exclusion program.

CHAPTER 813a. INTERACTIVE GAMING ADVERTISEMENTS, PROMOTIONS AND TOURNAMENTS

Sec.

813a.1. Definitions.
813a.2. Advertising.
813a.3. Promotions.
813a.4. Interactive gaming tournaments.
813a.5. Record retention and reports.

§ 813a.1. Definitions.

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

Celebrity player—A well-known or professional interactive gaming player who is under agreement with an interactive gaming certificate holder or interactive gaming operator whereby the interactive gaming certificate holder or interactive gaming operator pays the celebrity player a fixed sum to engage in interactive gaming with the certificate holder's or operator's players as an advertising or promotional enticement to its customers.

Promotion—An event conducted by an interactive gaming certificate holder or an interactive gaming operator that provides or offers registered or prospective players cash, credits, merchandise, coupons, players club credits, or points, bonuses or anything else of value to entice the player to wager with the interactive gaming certificate holder or interactive gaming operator.

Restricted interactive gaming credit—Interactive gaming funds that cannot be cashed out by the player until the wagering requirements or other restrictions associated with those funds are met in accordance with disclosed terms and conditions.

§ 813a.2. Advertising.

(a) Interactive gaming certificate holders and interactive gaming operators shall comply with § 501a.7 (relating to advertising).

(b) All interactive gaming advertisements exclusively directed to residents of this Commonwealth shall be co-branded, clearly and prominently displaying the name or logo, or both of the interactive gaming certificate holder and interactive gaming operator in equal size and quality, including but not limited to:

(i) Television or radio advertisements relating to the availability of interactive gaming or sports wagering in this Commonwealth.

(ii) Direct mail pieces, e-mails, or text messages sent to residents of this Commonwealth.

(iii) Billboards located in this Commonwealth.

(iv) Newspaper, magazine and other print publications that are based in this Commonwealth, including online editions of these publications.

(c) Advertising utilized by interactive gaming certificate holders and interactive gaming operators may not:

(1) Consist of indecent or offensive graphics or audio, or both.

(2) Obscure the game play area or obstruct a game in progress.

(3) Contain content that contradicts the game rules or terms and conditions.

(4) Specifically target players which have been excluded from play.

(d) Interactive gaming certificate holders and interactive gaming operators may utilize celebrity or other players to participate in peer-to-peer games for advertising or publicity purposes provided:

(1) The interactive gaming certificate holder or an interactive gaming operator clearly identifies the celebrity player to the players.

(2) The interactive gaming certificate holder or an interactive gaming operator does not realize a profit beyond the rake for hosting the celebrity player.

(3) The interactive gaming certificate holder or an interactive gaming operator shall include winnings by the celebrity player in its gross gaming revenue if the certificate holder or licensee does not permit the celebrity player to retain these funds.

(e) An interactive gaming certificate holder or an interactive gaming operator that contracts with a celebrity player to advertise or promote its services may fund the celebrity player's interactive gaming account in full or in part. The certificate holder or licensee may also pay the celebrity player a one-time or flat fee for his services.

(f) A celebrity player engaged in interactive gaming in this Commonwealth under an agreement with an interactive gaming certificate holder or an interactive gaming operator for advertising or promotional purposes may or may not utilize his own funds to wager.

§ 813a.3. Promotions.

(a) An interactive gaming certificate holder or interactive gaming operator shall notify and provide to the Board, at least 5 days prior to implementing a promotion, terms and conditions of each promotion. The terms and conditions must include, at a minimum, all of the following:

(1) A description of what is being offered as part of the promotion.

(2) The dates and times that the promotion is being conducted.

(3) The persons who are eligible to participate in the promotion.

(4) The required action to receive whatever is being offered as part of the promotion.

(5) The procedure to claim or redeem the promotional offer, if applicable.

(6) Registration procedures.

(7) Limitations on participation.

(8) Wagering requirements and limitations by type of game.

(9) The order in which funds are used for wagering.

(10) Eligible games.

(11) Any restrictions on the withdrawal of funds.

(12) Rules regarding cancellation.

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

(14) Any other information the Board may require.

(b) An interactive gaming certificate holder or an interactive gaming operator shall designate one employee responsible for providing promotions to the Board. The designated employee shall provide a signed attestation with the submitted promotion indicating the employee has reviewed the promotion for compliance with Board regulations. The designated employee shall serve as the point of contact between a certificate holder or a licensee and the Board on all submitted promotions.

(c) An interactive gaming certificate holder or interactive gaming operator shall be responsible for providing the terms and conditions of promotions and the conduct of all promotions offered directly or indirectly by a third-party vendor or marketing affiliate on behalf of the interactive gaming certificate holder or an interactive gaming operator.

(d) The terms and conditions of all promotions communicated to players must be posted on the interactive gaming certificate holder's home webpage as well as any skins the interactive gaming certificate holder operates or an interactive gaming operator operates on behalf of an interactive gaming certificate holder. The terms and conditions must be stated in a clear and conspicuous manner using plain language and be readily accessible and available for review for the duration of the promotion (even after player accepts a promotion).

(e) An interactive gaming certificate holder or interactive gaming operator shall provide a clear and conspicuous method for a player to cancel his participation in a promotion that utilizes restricted interactive gaming credits. Upon request for cancellation, the interactive gaming certificate holder or interactive gaming operator shall inform the player of the amount of unrestricted funds that will be returned upon cancellation and the value of restricted funds that will be removed from the player's interactive gaming account. If the player elects to proceed with cancellation, unrestricted funds remaining in a player's interactive gaming account must be returned in accordance with the terms and conditions.

(f) An interactive gaming certificate holder or interactive gaming operator may not, once a player has met the terms of a promotion, cap or limit winnings earned while participating in the promotion.

(g) An interactive gaming certificate holder or an interactive gaming operator may be required to discontinue, as

expeditiously as possible, the use of a particular promotion upon receipt of written notice from the Board that the Board has determined that the use of the particular promotion in, or with respect to, this Commonwealth could adversely impact the public or the integrity of gaming.

(h) An interactive gaming certificate holder or interactive gaming operator may not offer or conduct a promotion which violates any Federal, State or local law.

(i) An interactive gaming certificate holder or an interactive gaming operator shall develop and submit to the Board, as part of the submission required as part of the certificate holder's or licensee's internal controls, procedures governing the conduct of all promotions to be offered by an interactive gaming certificate holder or interactive gaming operator.

§ 813a.4. Interactive gaming tournaments.

(a) An organized event that permits a player to purchase or be awarded the opportunity to engage in competitive play against other players (that is, a tournament) may be permitted providing all of the following:

(1) Prior to conducting an interactive gaming tournament, an interactive gaming certificate holder or an interactive gaming operator shall file for approval of the terms and conditions of each interactive gaming tournament type with the Bureau of Gaming Operations as part of the certificate holder's or licensee's internal controls. The terms and conditions shall be followed and include, at a minimum, all of the following:

(i) Game type (for example, Hold 'Em Poker).

(ii) Rules concerning tournament play and participation.

(iii) All conditions registered players shall meet to qualify for entry into, and advancement through, the tournament.

(iv) Any conditions concerning late arrivals or complete tournament no-shows and how auto-blind posting or initial entry purchase, or both, is handled.

(v) Funding source amounts comprising the prize pool (for example, buy-ins, re-buys or add-ons).

(vi) Prize structure on payout.

(vii) Methodology for determining win.

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

(2) While enabled for tournament play, a game may not accept real money from any source, nor pay out real money in any way, and must utilize tournament specific credits, points or chips which do not have cash value.

(b) The terms and conditions of all interactive gaming tournaments communicated to players shall be posted on the interactive gaming web site and stated in a clear and conspicuous manner using plain language. The terms and conditions of each interactive gaming tournament must be readily accessible and remain available for review by the player until the interactive gaming tournament is complete.

(c) An interactive gaming certificate holder or an interactive gaming operator may be required to discontinue, as expeditiously as possible, an interactive gaming tournament upon receipt of written notice from the Board's Executive Director that the Board's Executive Director has determined that the conduct of an interactive gaming tournament could adversely impact the public or the integrity of gaming.

(d) An interactive gaming certificate holder or an interactive gaming operator shall submit a notice of intent to conduct an interactive gaming tournament at least 5 business days prior to the start of the tournament. The notice shall be submitted electronically to the Bureau of Gaming Operations using the Internal Controls and Table Games Submission Form, which is posted on the Board's web site, and must include all of the following:

(1) The type of game to be played.

(2) The dates and times the tournament will be conducted.

(3) Participation eligibility requirements including all of the following:

(i) Who is eligible to participate.

(ii) The minimum and maximum number of participants.

(iii) Entry fees charged.

(4) The monetary amount or description of the prizes to be awarded.

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

(e) Submission of a proposed schedule may not require the interactive gaming certificate holder or interactive gaming operator to conduct all tournaments in the schedule.

(f) An interactive gaming certificate holder or interactive gaming operator may seek to amend or modify the schedule at any time by filing a written request with the Board's Executive Director.

(g) An interactive gaming certificate holder or interactive gaming operator shall maintain records related to the conduct of interactive gaming tournaments in accordance with § 465a.6(c) (relating to retention, storage and destruction of books, records and documents). These records shall be made available to Board staff and the Department upon request and must include all of the following:

(1) A full accounting of gross interactive gaming revenue for each tournament including cash received as entry fees and the total of cash or cash equivalents paid out to registered players.

(2) The names and addresses of all prize winners and the prize each winner was awarded.

§ 813a.5. Record retention and reports.

(a) Unless otherwise approved by the Board, a record of all bonus and promotional wagering offers related to interactive gaming shall be maintained in an electronic file that is readily available to the Board. All bonus and promotional wagering offers must be stated in clear and unambiguous terms and be readily accessible by the registered player.

(b) Unless otherwise exempted by the Board, a gaming system must record all promotional offers (Promotions Log) issued through the system. The log must provide the information necessary to audit compliance with the terms and conditions of current and previous offers.

(c) An interactive gaming system must be able to provide a Promotional Account Summary Report (or similarly named report) on demand for any player loyalty promotions or bonuses, or both, that are redeemable for cash, monetary game play credits or merchandise. The report must contain, at a minimum, all of the following information:

(1) Beginning balance for promotion type.

(2) Total amount of awards by promotion type.

(3) Total amount used by promotion type.

(4) Total amount expired by promotion type.

(5) Total adjustment amount by promotion type.

(6) Ending balance by promotion type.

CHAPTER 814a. COMPULSIVE AND PROBLEM GAMBLING REQUIREMENTS

Sec.
814a.1. General requirements.
814a.2. Responsible gaming self-limits.
814a.3. Compulsive and problem gambling plan.
814a.4. Employee training program.
814a.5. Reports.
814a.6. Web site requirements.

§ 814a.1. General requirements.

(a) Interactive gaming shall only be engaged in by registered players who have established an interactive gaming account for interactive gaming.

(b) The message "IF YOU OR SOMEONE YOU KNOW HAS A GAMBLING PROBLEM, HELP IS AVAILABLE, CALL 1-800-GAMBLER," or comparable language approved the Board, must be prominently displayed to a person visiting or logging onto and logging off of the interactive gaming certificate holder or interactive gaming operator's interactive gaming skin.

(c) When a registered player logs on to an interactive gaming system, the system must display the date and time of the registered player's previous log on.

(d) If a registered player has suspended his account, an interactive gaming certificate holder or interactive gaming operator may not send gaming-related electronic or direct postal mail to that player while the account is suspended.

(e) Software utilized for interactive gaming must display all of the following information, in addition to the minimum display standards in this subpart:

(1) The current time in the time zone where the registered player is physically located and the time elapsed while in the current registered player session.

(2) Cause a pop-up notification, at least every hour, to be prominently displayed on the interactive gaming device advising the registered player of the amount of time elapsed since his log on, and the amount of money wagered since his log on.

(3) Offer the registered player the option to select a pop-notification, in 15-minute and 30-minute increments, advising the registered player of the amount of money wagered since his log on.

(4) Offer the option to activate self-imposed limits during the player account registration process.

(f) An interactive gaming certificate holder or interactive gaming operator offering interactive gaming shall have a dedicated licensed employee responsible for notifying the Board upon detecting a person participating in interactive gaming who is required to be excluded under Board regulations or any person who is otherwise prohibited from engaging in interactive gaming. This employee shall be licensed as a key employee.

(g) All terms and conditions for interactive gaming must be included as an appendix to the internal controls or, when specified, as part of the interactive gaming compulsive and problem gambling plan of the interactive gaming certificate holder or interactive gaming operator addressing all aspects of the operation, including all of the following:

(1) Registered player's right to set responsible gaming limits and to self-exclude.

(2) Registered player's right to suspend his account for any selected period of time.

(3) Information to be displayed on a registered player protection page, which shall be accessible to a registered player during a registered player session. The registered player protection page must contain, at a minimum, all of the following:

(i) A prominent message, which states "If you or someone you know has a gambling problem, help is available. Call 1-800-Gambler" in a size and font as approved the Director of the Office of Compulsive and Problem Gaming (OCPG).

(ii) A direct link to all of the following:

(A) The Council on Compulsive Gambling of Pennsylvania's web site.

(B) The Department of Drug and Alcohol Programs' (or successor agency) gambling addiction participating provider list webpage.

(C) The OCPG webpage.

(iii) All of the following responsible gaming information that shall be approved by the Board's Director of the OCPG:

(A) A clear statement of the interactive gaming certificate holder or interactive gaming operator's policy and commitment to responsible gaming.

(B) Informational documents, which shall be reviewed and updated annually by the interactive gaming certificate holder or interactive gaming operator, regarding all of the following subjects, or a direct link to information regarding all of the following subjects, if available, from an organization based in this Commonwealth or the United States dedicated to helping people with potential gambling disorders and labeled as:

(I) Rules of responsible gambling.

(II) Myths about gambling.

(III) Risks associated with gambling.

(IV) Signs and symptoms of gambling disorders.

(V) The Board's self-exclusion brochure.

(C) Rules governing self-imposed responsible gaming limits, including all of the following:

(I) List of each type of self-imposed limit.

(II) How to enroll in each type of self-imposed limit.

(iv) The following statement: "A person who has enrolled in interactive gaming self-exclusion or has otherwise been excluded from interactive gaming activities, and individuals who are under the age of 21, shall not participate in interactive gaming or interactive gaming activities and will have their winnings forfeited and interactive gaming accounts suspended upon violation." The text and font size of the notices shall be submitted for approval to the Director of the OCPG.

(h) An interactive gaming system must comport with all requirements regarding player accounts in Chapter 812a (relating to interactive gaming player accounts).

§ 814a.2. Responsible gaming self-limits.

An interactive gaming system must be capable of allowing a registered player to establish the following responsible gaming limits. Any decrease to these limits may not be effective later than the registered player's next login. Any increase to these limits must become effective only after the time period of the previous limit has expired and the registered player reaffirms the requested increase:

(1) A deposit limit must be offered on a daily, weekly and monthly basis and must specify the maximum amount of money a registered player may deposit into his interactive gaming account during a particular period of time.

(2) A limit on the amount of money spent within a daily, weekly and monthly basis must be offered. The registered player shall be unable to participate in gaming for the remainder of the time selected if the registered player reaches the loss limit.

(3) A limit on the maximum amount of any single wager on any interactive game.

(4) A time-based limit must be offered on a daily basis and must specify the maximum amount of time, measured hourly from the registered player's login to log off, a registered player may spend engaging in interactive gaming, provided that if the time-based limit is reached a registered player is permitted to complete any round of play, or active or prepaid tournament.

(5) A table limit must be offered and must specify the maximum amount a registered player may bring to a peer-to-peer interactive gaming table.

(6) A temporary suspension of a player's interactive gaming account must be offered for any number of hours or days, as selected by the registered player, which shall not be less than 72 hours.

(7) The interactive gaming certificate holder or interactive gaming operator shall provide a mechanism by which a registered player may change the controls of paragraphs (1)—(6). Notwithstanding any other provision in this section, the registered player may not change gaming controls while an interactive gaming account is suspended. The registered player shall continue to have access to the interactive gaming account and shall be permitted to withdraw funds from the account upon proper application for the funds to the interactive gaming certificate holder or interactive gaming operator.

§ 814a.3. Compulsive and problem gambling plan.

(a) An interactive gaming certificate or interactive gaming operator applicant shall submit a compulsive and problem gambling plan for review at the time of submission of the application that conforms with § 501a.2 (relating to compulsive and problem gambling plan).

(b) In addition to the requirements in § 501a.2, an interactive gaming certificate holder's or interactive gaming operator applicant's compulsive and problem gambling plan must include all of the following:

(1) The goals of the plan.

(2) The identification of the individual who will be responsible for the implementation and maintenance of the plan.

(3) Policies and procedures including all of the following:

(i) The commitment of the interactive gaming certificate holder or interactive gaming operator to train appropriate employees.

(ii) The duties and responsibilities of the employees designated to implement or participate in the plan, including the dedicated employee who is responsible for ensuring the operation and integrity of interactive gaming and reviewing all reports of suspicious behavior.

(iii) The responsibility of registered players with respect to responsible gambling.

(iv) Procedures to identify registered players and employees with suspected or known compulsive and problem gambling behavior.

(v) Procedures for prominently posting the message "IF YOU OR SOMEONE YOU KNOW HAS A GAMBLING PROBLEM, HELP IS AVAILABLE, CALL 1-800-GAMBLER," or comparable language approved by the Board, on all interactive gaming sites and displaying the message to a person visiting or logging onto and logging off the interactive gaming certificate holder or interactive gaming operator's interactive gaming skin or interactive gaming web site.

(vi) Procedures on displaying the date and time of the registered player's previous log on each time that registered player logs on to his interactive gaming account.

(vii) Procedures for preventing an underage person or a person on the interactive gaming self-exclusion list from being mailed any advertisement, promotion or other target mailing, including those sent electronically, no later than 5 business days after receiving notice from the Board that the person has been placed on the interactive gaming self-exclusion list.

(viii) A policy and procedures for the display of the time in the time zone where the registered player is physically located and the time elapsed while in the current registered player session and the cause of a pop-up notification, at least every hour, to be prominently displayed on the interactive gaming device advising the registered player of the amount of time elapsed and the money wagered since his log on.

(ix) Procedures for offering registered players the option to select a pop-up notification in 15-minute and 30-minute increments advising the registered player of the amount of money wagered since his log on.

(x) Procedures for reviewing, updating and posting information on the interactive gaming certificate holder or interactive gaming operator's web site regarding gambling addiction treatment services, gamblers anonymous programs, compulsive gambling organizations and informational documents on all of the following:

(A) Rules of responsible gambling.

(B) Myths about gambling.

(C) Risks associated with gambling.

(D) Signs and symptoms of gambling disorders.

(E) Randomness of play.

(xi) Procedures for posting links to all of the following organizations' web sites on the interactive gaming certificate holder/operator licensee's web site:

(A) The Council on Compulsive Gambling of Pennsylvania.

(B) The National Council on Problem Gambling.

(C) The Department of Drug and Alcohol Programs' (or successor agency) gambling addiction participating provider list.

(D) Gamblers Anonymous of PA.

(E) Gam-Anon of PA.

(F) The Board's Office of Compulsive and Problem Gambling.

(G) A Pennsylvania or United States suicide prevention organization's webpage and telephone number.

(xii) Procedures for responding to registered player requests for information regarding gambling addiction treatment services, gamblers anonymous programs, compulsive gambling organizations, and other informational documents.

(A) The interactive gaming certificate holder or interactive gaming operator shall provide examples of the materials to be used as part of its plan, including the problem gambling helpline number and message, informational documents and other posted material, including all of the following:

(I) Rules of responsible gambling.

(II) Myths about gambling.

(III) Risks associated with gambling.

(IV) Signs and symptoms of gambling disorders.

(V) Randomness of play.

(VI) Self-exclusion brochure.

(4) Policies and procedures on the governing of self-imposed limits and suspension.

(5) An employee training program as required under this chapter, including training materials to be utilized and a plan for annual reinforcement training.

(6) A certification process established by the interactive gaming certificate holder or interactive gaming operator to verify that each employee has completed the training required by the plan.

(7) An estimation of the cost of development, implementation and administration of the plan.

(8) Procedures to prevent underage gambling as required under § 513a.3(b) (relating to responsibilities of licensees, permittees, registrants and certification holders).

(9) Procedures to prevent excluded persons from gambling.

(10) Procedures to prevent self-excluded and temporarily suspended persons from gambling.

(11) Procedures to monitor all interactive gaming sites for suspicious activity including those who are:

(i) Engaging in or attempting to engage in, or who are reasonably suspected of, cheating, theft, embezzlement, collusion, money laundering or any other illegal activities.

(ii) Required to be excluded under Board regulations.

(iii) Prohibited by the interactive gaming certificate holder or interactive operator licensee from interactive gaming.

(12) Procedures on the reporting of those who may have or have a known gambling disorder.

(13) Details of outreach programs which the interactive gaming certificate holder or interactive gaming operator intends to offer to employees and individuals who are not employees of the interactive gaming certificate holder or interactive gaming operator.

(14) The plan for posting the statement "If you or someone you know has a gambling problem, help is available. Call 1-800-GAMBLER" on the interactive gaming certificate holder's or interactive gaming operator's webpage and each skin.

(c) The compulsive and problem gambling plan of an applicant for an interactive gaming certificate or interactive gaming license that has been approved to receive an interactive gaming certificate or interactive gaming license shall be approved by the Director of the Office of Compulsive and Problem Gaming (OCPG). An applicant for an interactive gaming certificate or interactive gaming license who has been approved to receive an interactive gaming certificate or interactive gaming license will be notified in writing of any deficiencies in the plan and may submit revisions to the plan to the Director of the OCPG. An interactive gaming certificate holder or interactive gaming operator may not commence operations until the Director of the OCPG approves the plan.

(d) Compliance with the plan approved under this chapter will be a condition of interactive gaming certificate or interactive gaming license renewal.

(e) An interactive gaming certificate holder or interactive gaming operator shall submit any other policies and procedures intended to be used beyond what is required under subsection (d) to prevent and raise awareness of gambling disorders.

(f) An interactive gaming certificate holder or interactive gaming operator shall submit amendments to the compulsive and problem gambling plan to the Director of the OCPG for review and approval at least 30 days prior to the intended implementation date of the amendments. The interactive gaming certificate holder or interactive gaming operator may implement the amendments on the 30th calendar day following the filing the amendments unless the interactive gaming certificate holder or interactive gaming operator receives a notice under subsection (h) objecting to the amendments.

(g) If during the 30-day review period the Director of the OCPG determines that the amendments may not promote the prevention of compulsive and problem gambling or assist in the proper administration of responsible gaming programs, the Director of the OCPG may, by written notice to the interactive gaming certificate holder or interactive gaming operator, object to the amendments. The objection will:

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

(2) Direct that the amendments not be implemented until approved by the Director of the OCPG.

(h) When amendments have been objected to under subsection (g), the interactive gaming certificate holder or interactive gaming operator may submit revised amendments for review in accordance with subsections (f) and (g).

§ 814a.4. Employee training program.

(a) The annual employee training program required under this chapter must include instruction on all of the following:

(1) Characteristics and symptoms of compulsive behavior, including compulsive and problem gambling.

(2) The relationship of gambling disorders to other addictive behavior.

(3) The social and economic consequences of a gambling disorder, including debt, treatment costs, suicide, criminal behavior, unemployment and domestic issues.

(4) Techniques to be used when a gambling disorder is suspected or identified.

(5) Techniques to be used to discuss a gambling disorder with registered players and advise registered players to contact 1-800-GAMBLER to receive information regarding community, public and private treatment services.

(6) Procedures for suspending an interactive gaming account belonging to an underage individual or a person on the interactive gaming self-exclusion list, if necessary, procedures that include obtaining the assistance of appropriate law enforcement personnel.

(7) Procedures for preventing an excluded person or a person on the interactive gaming self-exclusion list from being mailed any advertisement, promotion or other target mailing no later than 5 business days after receiving notice from the Board that the person has been placed on the interactive gaming self-exclusion list.

(8) Procedures for preventing an individual under 21 years of age from receiving any advertisement, promotion or other target mailing.

(9) Procedures to prevent an individual under 21 years of age or a person on the interactive gaming self-exclusion list from having access to or from receiving complimentary services, or other like benefits.

(b) Training and training materials shall be updated annually and include current research and information on responsible and problem gambling.

(c) As part of each employee's orientation, and prior to the start of their job duties, responsible and problem gambling training for employees shall be conducted by a person with specialized knowledge, skill, training and experience in responsible gaming employee training programs as part of the employee's orientation. If an online training program is utilized, the training shall be created and maintained by a person with specialized knowledge, skill, training and experience in responsible gaming employee training programs.

(d) Employees who have received training shall be certified by the interactive gaming certificate holder or interactive gaming operator under this chapter upon completion of the training.

(e) Employees are required to receive periodic reinforcement training at least once every calendar year starting with the year following the year in which the employee was hired. The date of the reinforcement training shall be recorded in each employee's personnel file.

(f) Employees shall report persons with a suspected or identified gambling disorder to a designated employee or other supervisory employee.

(g) The identity of an individual with suspected or known problem gambling behavior must be confidential except as provided under Board regulations regarding interactive gaming self-exclusion list and section 1516(d) of the act (relating to list of persons self-excluded from gaming activities).

(h) An interactive gaming certificate holder or interactive gaming operator may collaborate with a person with specialized knowledge, skill, training and experience in responsible gaming employee training programs to develop an in-house or Internet-based employee training program to provide the training and reinforcement training required under this chapter.

(i) Interactive gaming certificate holder or interactive gaming operators may enact policies or procedures, or both, that are more stringent than those listed in these regulations, including stricter rules for those who sign up for a self-exclusion list.

§ 814a.5. Reports.

(a) An interactive gaming certificate holder or interactive gaming operator shall submit to the Director of the Office of Compulsive and Problem Gaming (OCPG) an annual summary of its compulsive and problem gambling program by the last business day of July.

(b) The annual summary must contain, at a minimum, detailed information regarding all of the following:

(1) Employee training, including all of the following:

(i) The dates of new hires and annual reinforcement compulsive gambling training.

(ii) The individual or group who conducted the training.

(iii) The number of employees who completed the new hire compulsive gambling training.

(iv) The number of employees who completed the annual reinforcement compulsive gambling training.

(2) The amount spent on the Compulsive and Problem Gambling Plan for all of the following:

(i) Employee training.

(ii) Outreach including community training and sponsorships.

(3) Additional information including all of the following:

(i) The number of underage individuals who were denied interactive gaming access.

(ii) The number of self-excluded individuals who were denied interactive gaming access.

(iii) A summary of any community outreach conducted by the certificate holder/operator licensee.

§ 814a.6. Web site requirements.

Under section 1509(c) of the act (relating to compulsive and problem gambling program), each interactive gaming certificate holder/operator licensee shall cause the words "IF YOU OR SOMEONE YOU KNOW HAS A GAMBLING PROBLEM, HELP IS AVAILABLE, CALL 1-800-GAMBLER" or comparable language approved by the Board, which must include the words "gambling problem" and "call 1-800-GAMBLER" to be prominently displayed to a person visiting or logging onto the interactive gaming certificate holder or interactive gaming operator's interactive gaming skin or interactive gaming web site.

CHAPTER 815a. INTERACTIVE GAMING SELF-EXCLUDED PERSONS

Sec.

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§ 815a.1. Scope.

The purpose of this chapter is to provide players with a process to self-exclude from interactive gaming activities in this Commonwealth and detail the process by which individuals may exclude themselves from interactive gaming activity and restore their ability to participate in interactive gaming activity in this Commonwealth.

§ 815a.2. Definitions.

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

Fully executed gaming transaction—An activity involving interactive gaming or interactive or mobile sports wagering occurring in this Commonwealth which results in an individual obtaining any money or thing of value from or being owed any money or thing of value by an interactive gaming certificate holder or interactive gaming operator.

Gaming activity—The play of interactive gaming or interactive or mobile sports wagering including play during contests, tournaments or promotional events.

Gaming related activity—An activity related to interactive gaming or interactive or mobile sports wagering including applying for player club memberships or credit, cashing checks or accepting a complimentary gift, service, promotional item or other thing of value from an interactive gaming certificate holder, interactive gaming operator or an affiliate thereof.

Interactive gaming self-excluded person—A person whose name and identifying information is included, at the person's own request, on the interactive gaming self-exclusion list maintained by the Board.

Interactive gaming self-exclusion list—A list of names and identifying information of persons who, under this chapter, have voluntarily agreed to be:

(i) Excluded from engaging in interactive gaming or interactive or mobile sports wagering in this Commonwealth.

(ii) Prohibited from collecting any winnings or recovering any losses resulting from interactive gaming or interactive or mobile sports wagering activity in this Commonwealth.

OCPG—Office of Compulsive and Program Gambling.

Winnings—Any money or thing of value received from, or owed by, an interactive gaming certificate holder or interactive gaming operator as a result of a fully executed gaming transaction.

§ 815a.3. Requests for interactive gaming self-exclusion.

(a) A person requesting placement on the interactive gaming self-exclusion list shall submit a completed Request for Voluntary Self-Exclusion from Gaming Activities Form to the Board by one of the following methods:

(1) Electronically on the Board's web site.

(2) In person by scheduling an appointment at the Board's Harrisburg office, one of the Board's other offices or at a licensed facility. To make an appointment, a person shall contact the OCPG at (717) 346-8300 or problemgambling@pa.gov.

(b) A request for interactive gaming self-exclusion must include all of the following identifying information:

(1) Name, including any aliases or nicknames.

(2) Date of birth.

(3) Address of current residence.

(4) Telephone number.

(5) Social Security number, or the last 4 digits of the individual's Social Security number, when voluntarily provided in accordance with section 7 of the Privacy Act of 1974 (5 U.S.C.A. § 552a).

(6) Physical description of the person, including height, gender, hair color, eye color and any other physical characteristic that may assist in the identification of the person.

(c) The information provided in subsection (b) shall be updated by the interactive gaming self-excluded person within 30 days of a change. Updated information shall be submitted on a Change of Information Form to the following address, or submitted online in the "update my information" webform on the Board's web site. A copy of the form can be obtained by calling the OPCG at (717)346-8300, by e-mail at problemgambling@pa.gov, or by writing to:

PENNSYLVANIA GAMING CONTROL BOARD
OFFICE OF COMPULSIVE AND
PROBLEM GAMBLING
P.O. BOX 69060
HARRISBURG, PA 17106-9060

(d) The length of interactive gaming self-exclusion requested by a person must be one of the following:

(1) One year (12 months).

(2) Five years.

(3) Lifetime.

(e) A request for self-exclusion from interactive gaming activities in this Commonwealth must include a signed release which:

(1) Acknowledges that the request for interactive gaming self-exclusion has been made voluntarily.

(2) Certifies that the information provided in the request for interactive gaming self-exclusion is true and accurate.

(3) Acknowledges that the individual requesting interactive gaming self-exclusion is or may be a problem gambler.

(4) Acknowledges that a person requesting a lifetime exclusion may only request removal from the interactive gaming self-exclusion list in accordance with the procedures set forth in § 815a.6 (relating to removal from the interactive gaming self-exclusion list) and that a person requesting a 1-year or 5-year exclusion will remain on the interactive gaming self-exclusion list until the period of exclusion expires.

(5) Acknowledges that if the individual is discovered participating in interactive gaming, that the individual's interactive gaming account will be suspended and the individual's winnings will be subject to confiscation and remittance to support compulsive and problem gambling programs.

(6) Releases, indemnifies, holds harmless and forever discharges the Commonwealth, the Board and all interactive gaming certificate holders or interactive gaming operators from claims, damages, losses, expenses or liability arising out of, by reason of or relating to the

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 interactive gaming certificate holder or interactive gaming operator to withhold interactive gaming privileges from or restore interactive gaming privileges to an interactive gaming self-excluded person.

(ii) Otherwise permitting or not permitting an interactive gaming self-excluded person to engage in interactive gaming activities in this Commonwealth while on the list of interactive gaming self-excluded persons.

(iii) Confiscation of the individual's winnings.

(f) A person submitting an interactive gaming self-exclusion request shall present or submit electronically a copy of that person's valid government-issued identification containing the person's signature and photograph when the person submits the request, or if the person does not possess a valid government-issued identification, some other documentation to verify the identity of the person (for example, a utility or other bill in the person's name at the same address provided).

(g) A person requesting interactive gaming self-exclusion under this chapter shall have a photograph taken by the Board, or agent thereof, upon submission of the request to be on the list.

(h) A person requesting casino self-exclusion electronically on the Board's web site shall submit a copy of a recent passport-style photograph of the person upon submission of the request to be on the list.

§ 815a.4. Interactive gaming self-exclusion list.

(a) The Board will maintain the official interactive gaming self-exclusion list and will make all necessary additions or deletions of individuals removed from the list under § 815a.6 (relating to removal from interactive gaming self-exclusion list) within 5 business days of the verification of the information received under § 815a.3 (relating to requests for interactive gaming self-exclusion) and shall make the interactive gaming self-exclusion list available to interactive gaming certificate holders and interactive gaming operators electronically by means of the Board's self-exclusion system.

(b) The information made available to interactive gaming certificate holder and interactive gaming operators by means of the Board's self-exclusion system will include the following information concerning a person who has been added to the interactive gaming self-exclusion list:

(1) Name, including any aliases or nicknames.

(2) Date of birth.

(3) Address of current residence.

(4) Telephone number.

(5) Social Security number, or the last 4 digits of the individual's Social Security number, when voluntarily provided by the person requesting interactive gaming self-exclusion under section 7 of the Privacy Act of 1974 (5 U.S.C.A. § 552a).

(6) Physical description of the person, including height, gender, hair color, eye color and other physical characteristic, that may assist in the identification of the person.

(7) A copy of the photograph taken by the Board or submitted electronically under § 815a.3.

(c) The information made available to interactive gaming certificate holders and interactive gaming operators by the Board concerning a person whose name has been removed from the interactive gaming self-exclusion list will include the name and date of birth of the person.

(d) An interactive gaming certificate holder and interactive gaming operator shall maintain a copy of the interactive gaming self-exclusion list and establish procedures to ensure that the copy of the interactive gaming self-exclusion list is updated at least every 2 business days with the information made available by means of the Board's self-exclusion system and that all appropriate employees and agents of the interactive gaming certificate holder or interactive gaming operator are notified of any additions to or deletions from the list.

(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) Interactive gaming certificate holders or interactive gaming operators, employees or agents thereof may not disclose the name of, or any information about, a person who has requested self-exclusion from interactive gaming to anyone other than employees and agents of the interactive gaming certificate holder or interactive gaming operator whose duties and functions require access to the information. Notwithstanding the foregoing, an interactive gaming certificate holder or interactive gaming operator may disclose the identity of an interactive gaming self-excluded person to appropriate employees of affiliated gaming entities in this or other jurisdictions for the limited purpose of assisting in the proper administration of responsible gaming programs.

(g) An interactive 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 interactive gaming activity for the entire period of time that the person is on the Board's interactive gaming self-exclusion list.

(h) Winnings incurred by an interactive 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, found on or about or redeemed by an interactive gaming self-excluded person's interactive gaming account shall be presumed to constitute winnings subject to remittance to the Board.

§ 815a.5. Certificate holder and operator duties.

(a) An interactive gaming certificate holder or interactive gaming operator shall train its employees and establish procedures to do all of the following:

(1) Refuse wagers from and deny gaming privileges to an interactive gaming self-excluded person.

(2) Deny gaming related activities and benefits to an interactive gaming self-excluded person.

(3) Ensure that interactive gaming self-excluded persons do not receive, either from the interactive gaming certificate holder, interactive gaming operator or any agent thereof, targeted mailings, telemarketing promotions, player club materials or other promotional materials relating to interactive gaming activities.

(4) Make available to registered players materials explaining the interactive gaming self-exclusion program.

(b) An interactive gaming certificate holder or interactive gaming operator shall submit a copy of its procedures and training materials established under this subsection to the Director of OCPG for review and approval at least 30 days prior to initiation of interactive gaming activities on interactive gaming sites. The interactive gaming cer-

tificate holder or interactive gaming operator will be notified in writing of any deficiencies in the procedures and training materials and may submit revisions to the procedures and training materials to the Director of the OCPG. An interactive gaming certificate holder or interactive gaming operator may not commence operations until the Director of the OCPG approves the procedures and training.

(c) An interactive gaming certificate holder or interactive gaming operator shall submit amendments to the procedures and training materials required under this subsection to the Director of the OCPG for review and approval at least 30 days prior to the intended implementation date of the amendments. The interactive gaming certificate holder or interactive gaming operator may implement the amendments on the 30th calendar day following the filing of the amendments unless the interactive gaming certificate holder or interactive gaming operator receives a notice under this subsection objecting to the amendments.

(d) If during the 30-day review period the Director of the OCPG determines that the amendments to the procedures and training materials may not promote the prevention of interactive gaming by self-excluded individuals or assist in the proper administration of the interactive gaming self-exclusion program, the Director of the OCPG may, by written notice to the interactive gaming certificate holder or interactive gaming operator, object to the amendments. The objection will:

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

(2) Direct that the amendments not be implemented until approved by the Director of the OCPG.

(e) When the amendments to the procedures and training materials have been objected to under this subsection, the interactive gaming certificate holder or interactive gaming operator may submit revised amendments in accordance with this subsection (c).

(f) The list of interactive gaming self-excluded persons is confidential, and any distribution of the list to an unauthorized source constitutes a violation of the act.

(g) Under section 1516 of the act (relating to list of persons self-excluded from gaming activities), interactive gaming certificate holders and interactive gaming operators and employees thereof may not be liable for damages in any civil action, which is based on the following:

(1) Failure to withhold gaming privileges from or restore gaming privileges to an interactive gaming self-excluded person.

(2) Permitting or not permitting an interactive gaming self-excluded person to gamble.

(3) Good faith disclosure of the identity of an interactive gaming self-excluded person to someone, other than those authorized by this chapter, for the purpose of complying with this chapter.

(g) An interactive gaming certificate holder or interactive gaming operator shall report the discovery of an interactive gaming self-excluded person that did or attempt to engage in interactive gaming related activities to the Director of the OCPG within 24 hours.

§ 815a.6. Removal from the interactive gaming self-exclusion list.

(a) For individuals who are on the interactive gaming self-exclusion list for 1 year or 5 years, upon the conclusion of the period of self-exclusion, the individual will be removed from the interactive gaming self-exclusion list without further action on his part.

(b) For individuals who have elected to be interactive gaming self-excluded for less than lifetime, the individual may be removed from the interactive gaming self-exclusion list if all of the following has occurred:

(1) The individual has filed a petition with the Board's Office of Hearings and appeals requesting to be removed from the interactive gaming self-exclusion list.

(2) 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 interactive gaming self-exclusion list.

(3) The Board has found by a preponderance of the evidence that the person should be removed from the interactive gaming self-exclusion list and issues an order to that effect.

(c) For individuals who selected lifetime interactive gaming self-exclusion under § 815a.3(d)(3) (relating to requests for interactive gaming self-exclusion):

(1) After being on the interactive gaming self-exclusion list for a period of 10 years, the individual may petition the Board to be removed from the interactive gaming self-exclusion list.

(2) The petition shall be filed with the Board in writing, and shall be accompanied by all of the following:

(i) Documentation from a treatment provider who is certified by the International Gambling Counselor Certification Board or who has received a Problem Gambling Endorsement from the Pennsylvania Certification Board to conduct problem gambling assessments that the individual has completed a problem gambling assessment.

(ii) Documentation from a treatment provider that the individual has completed the treatment recommendation, if any, made after the assessment by the State-funded problem gambling treatment provider.

(3) After the petition is filed, OCPG will provide documentation to the Office of Enforcement Counsel regarding whether the individual has been known to engage in or attempt to engage in interactive gaming while self-excluded, including dates and times.

(4) The petition shall be handled in accordance with the procedures for petitions found in Subpart H of the Board's regulations, including all confidentiality provisions.

(5) As the petitioner, the interactive gaming self-excluded individual filing the petition for removal from the interactive gaming self-exclusion list bears the burden of proof in showing that removal from the list would not be detrimental to the individual's physical or mental well-being and would not have a negative impact on gaming in the Commonwealth.

(6) If the Board:

(i) Grants the petition, it shall deliver to the individual by first class mail an Order approving the petition for removal from the interactive gaming self-exclusion list, and provide to the individual the contact information for OCPG for information on how to complete the removal process.

(ii) Denies the petition, it shall deliver to the individual by first class mail an Order denying the petition for removal from the interactive gaming self-exclusion list, which shall notify the individual that he or she shall

remain on the interactive gaming self-exclusion list and include the reason for denial.

(7) Any petitioner whose petition is denied by the Board shall be prohibited from filing a subsequent petition for removal from the lifetime interactive gaming self-exclusion list for a period of five years from the date of denial.

§ 815a.7. Exceptions for individuals on the interactive gaming self-exclusion list.

The prohibition against allowing interactive gaming self-excluded persons to engage in activities related to interactive gaming does not apply to an individual who is on the interactive gaming self-exclusion list if all of the following apply:

(1) The individual is carrying out the duties of employment or incidental activities related to employment.

(2) The individual does not otherwise engage in any interactive gaming activities.

§ 815a.8. Disclosures of information related to persons on the self-exclusion list.

(a) The Board may periodically release to the public demographics and general information regarding the interactive gaming self-exclusion lists such as the total number of individuals on the list, gender breakdown and age range.

(b) The Board may make selected data available, upon request, for the limited purpose of assisting in the proper administration of responsible gaming programs.

(c) The Board will not disclose identifying information or confirm or deny the existence of an individual's name on the Board's interactive gaming self-exclusion lists.

CHAPTER 816a. INTERACTIVE GAMING LIVE STUDIO

Sec.
816a.1. Live studio simulcasting.
816a.2. Submission of game rules for approval.

§ 816a.1. Live studio simulcasting.

(a) An interactive gaming certificate holder or interactive gaming operator shall obtain Board approval to simulcast authorized table games.

(b) An interactive gaming certificate holder or interactive gaming operator shall obtain Board approval for the location of its proposed live simulcast studio.

(c) An entity producing, hosting, offering or otherwise providing live studio services shall be licensed by the Board prior to providing live studio services.

(d) An interactive gaming certificate holder or interactive gaming operator seeking to offer live studio simulcasting, as well as the entity producing, hosting, offering or otherwise providing live studio services, shall adhere to § 465a.9 (relating to surveillance system; surveillance department control; surveillance department restrictions), Chapter 611a (relating to table game minimum training standards) and game approval as set forth in this chapter.

(e) Table game simulcasting must utilize a simulcast control server for the purpose of recording all wagering activity and game results. The simulcast control server must do all of the following:

(1) Provide the player with real time visual access to the live game being played.

(2) Prevent anyone from accessing the wagering outcome prior to finalizing a wager.

(3) Record dealer-verified game results before posting.

(4) Be equipped with a mechanism to void game results, if necessary.

(f) All of the following information, at a minimum, must be readily available on an interactive gaming certificate holder's or interactive gaming operator's skin/web site before a player begins play and at all times during play:

(1) A visual display of the location of the table.

(2) The table minimum and maximum wagers.

(3) The number of decks used, if applicable.

(4) Dealer actions, if applicable.

(5) The amount wagered.

(6) The game outcome.

(7) Vigorish amount, if applicable.

(8) Payout odds, when applicable.

(9) The amount won or lost.

§ 816a.2. Submission of game rules for approval.

(a) Prior to offering a live studio table game authorized under this subpart governing interactive gaming in this Commonwealth, an entity producing, hosting, offering or otherwise providing live studio services shall submit and obtain approval of a Rules Submission which specifies which options the entity producing, hosting, offering or otherwise providing live studio services will use in the conduct of the live studio table game.

(b) The initial Rules Submission for any live studio interactive game and any amendment to the Rules Submission shall be submitted electronically to the Bureau of Gaming Operations using the form specified on the Board's web site at www.gamingcontrolboard.pa.gov.

(c) An entity producing, hosting, offering or otherwise providing live studio services may implement the provisions in a Rules Submission upon receipt of written notice of approval from the Board's Executive Director or on the 15th calendar day following the filing of the Rules Submission unless the entity producing, hosting, offering or otherwise providing live studio services receives written notice under subsection (d) tolling the Rules Submission or written notice of disapproval from the Board's Executive Director.

(d) If during the 15-day review period in subsection (c) the Bureau of Gaming Operations determines that a provision in the Rules Submission is inconsistent with the regulations for the conduct of that interactive game, the Bureau of Gaming Operations, by written notice to the entity producing, hosting, offering or otherwise providing live studio services, will:

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

(2) Direct that the 15-calendar day review period in subsection (c) be tolled and that the Rules Submission not be implemented until approved under subsection (e).

(e) When a Rules Submission has been tolled under subsection (d), the entity producing, hosting, offering or otherwise providing live studio services may submit a revised Rules Submission within 15 days of receipt of the written notice from the Bureau of Gaming Operations. the entity producing, hosting, offering or otherwise providing live studio services may implement the revised Rules Submission upon receipt of written notice of approval from the Board's Executive Director or on the 15th

calendar day following the filing of the revised Rule Submission unless the entity producing, hosting, offering or otherwise providing live studio services receives written notice under subsection (d) tolling the revised Rules Submission or written notice of disapproval from the Board's Executive Director.

(f) The current version of each Rules Submission of an entity producing, hosting, offering or otherwise providing live studio services shall be maintained and made available in electronic form through secure computer access to the internal audit and surveillance departments of the entity producing, hosting, offering or otherwise providing live studio services and the Board's casino compliance representatives and other Board employees. Each page of the Rules Submission must indicate the date on which it was approved by the Board's Executive Director.

(g) An entity producing, hosting, offering or otherwise providing live studio services shall maintain a copy, either in paper or electronic form, of any superseded Rules Submission for a minimum of 5 years.

CHAPTER 817a. INTERACTIVE GAMING COMMENCEMENT OF OPERATIONS

Sec.
817a.1. Definitions.
817a.2. Commencement of operations generally.
817a.3. Interactive gaming skins.

§ 817a.1. Definitions.

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

Remote game server or *remote game content*—Interactive gaming system hardware and software separate from that which comprises the gaming platform which allows access to games or may drive the features common to game offerings, game configurations, random number generators, reporting, and the like. The registered player initially communicates directly with the interactive gaming platform which can be integrated with one or more remote game servers or include remote game content, or both.

§ 817a.2. Commencement of operations generally.

(a) Prior to the commencement of interactive gaming operations, an interactive gaming certificate holder or interactive gaming operator shall submit all of the following:

(1) Documentation verifying the platform and related information to include all of the following:

(i) Platform version number.

(ii) A list of all submitted games.

(iii) Documentation listing the entity that created the submitted games.

(iv) Certification that the system operates in accordance with Commonwealth law and regulations.

(v) A list of all critical files within the interactive gaming system.

(vi) A list of any remote game content providers that will work in conjunction with the submitted platform.

(2) Testing results for the platform as well as all games.

(3) Documentation that provides a detailed overview of the interactive gaming system including system architecture, encryption methods utilized, user roles and permission settings, configuration settings, and logical and physical security.

(4) Documentation that provides an overview of the random number generator which must include a method that allows for extraction of the random number generator values for statistical analysis.

(5) A list of devices that will work in conjunction with the submitted platform.

(6) Details regarding the location and security standards for the primary and secondary equipment as well as data warehouses, data safes and other system related equipment.

(7) Copies of signed contracts between the interactive gaming certificate holder or interactive gaming operator and any third party integrating with the submitted platform.

(8) Documentation demonstrating, to the satisfaction of Board staff, implementation of all accounting and internal controls governing all of the following:

(i) Age and identity verification procedures.

(ii) Geolocation compliance.

(iii) Procedures on establishing and maintaining player accounts.

(iv) Procedures for ensuring player confidentiality.

(v) Procedures for ensuring accurate and timely submission of revenue and tax information to the Department.

(vi) Procedures governing player complaints.

(vii) Procedures for compiling and maintaining all requisite reports and logs.

(viii) Procedures regarding player protection, including implementation of compulsive and problem gambling and self-exclusion links on the certificate holder's or operator's web site.

(b) Prior to commencement of operations, the interactive gaming certificate holder's or interactive gaming operator's employees required to be licensed or permitted by the Board shall be appropriately licensed or permitted and trained in the performance of their responsibilities.

(c) Prior to commencement of operations, the interactive gaming certificate holder or interactive gaming operator shall ensure that new and existing employees of the certificate holder and interactive gaming operator are regularly informed about the restrictions on placing wagers by the interactive gaming sites offered by or associated with the interactive certificate holder.

(d) Prior to commencement of operations, the interactive gaming certificate holder or interactive gaming operator shall have successfully completed a test period.

(e) The Board will establish a commencement date upon which interactive gaming may commence in this Commonwealth.

(f) All interactive gaming certificate holders and interactive gaming operators shall commence operations on the date established by the Board unless granted an extension by the Board, upon a showing of good cause by the interactive gaming certificate holder or interactive gaming operator, up to 12 months from that date. Failure to commence interactive gaming operations within the time directed by the Board may result in administrative

sanctions up to and including revocation of the certificate or license to operate interactive gaming in this Commonwealth.

§ 817a.3. Interactive gaming skins.

(a) Under the act, the Board may issue an interactive gaming certificate to slot machine licensees to conduct interactive gaming in this Commonwealth, directly or through an interactive gaming operator acting on behalf of the interactive gaming certificate holder under the terms of an interactive gaming agreement that has been approved by the Board. For purposes of this subpart, "slot machine licensee" includes all Category 1, 2 and 3 slot machine licensees, and eligible qualified gaming entities.

(b) Under the act, the Board may authorize interactive gaming certificate holders or interactive gaming operators operating an interactive gaming system on behalf of an interactive gaming certificate holder to deploy interactive gaming skins or interactive gaming web sites, including through mobile applications, to facilitate the conduct of interactive gaming activities for registered players in this Commonwealth or registered players in any other state or jurisdiction which the Commonwealth has entered into an interactive gaming reciprocal agreement.

(c) Interactive gaming operators are not permitted to offer interactive games in this Commonwealth independent from an interactive gaming certificate holder and the interactive gaming certificate holder's webpage or the webpage of an entity within the interactive gaming certificate holder's organizational structure.

(d) Interactive gaming certificate holders and interactive gaming operators acting on behalf of an interactive gaming certificate holder may only offer interactive gaming in this Commonwealth through the interactive gaming certificate holder's webpage or mobile application or the webpage or mobile application of an entity within the interactive gaming certificate holder's organizational structure.

(e) Interactive gaming certificate holders and interactive gaming operators operating an interactive gaming system on behalf of an interactive gaming certificate holder shall obtain Board approval of all interactive gaming skins operated on behalf of the interactive gaming certificate holder for purposes of conducting interactive gaming in this Commonwealth.

(f) To ensure compliance with the act, a slot machine licensee or eligible qualified gaming entity shall petition for and obtain its own interactive gaming certificate to operate interactive gaming operations in this Commonwealth.

(g) Nothing in this section is intended to prohibit interactive gaming certificate holders from entering into interactive gaming operation agreements with multiple licensed interactive gaming operators to offer interactive games the Board has authorized the interactive gaming certificate holder to conduct.

(h) Nothing in this section is intended to prohibit interactive gaming operators from entering into interactive gaming operation agreements with multiple interactive gaming certificate holders to offer interactive games the Board has authorized the interactive gaming certificate holder to conduct.

(i) Nothing in this section is intended to prohibit interactive gaming certificate holders or interactive gaming operators operating an interactive gaming system on behalf of an interactive gaming certificate holder from conducting interactive gaming utilizing players registered in other jurisdictions with which the Commonwealth has entered into a reciprocal agreement permitting interstate interactive gaming.

CHAPTER 830a. MULTIUSE COMPUTING DEVICE GAMING PROVISIONS

Sec.
830a.1. Scope.
830a.2. Board authorization required.
830a.3. Airport authority or concession operator agreements.
830a.4. Multiuse computing device gaming petition and standards of review.
830a.5. Multiuse computing device gaming fees and taxes.
830a.6. Licensure requirements.
830a.7. Multiuse computing device and gaming platform requirements.
830a.8. Multiuse computing device gaming accounting and internal controls; required reports.
830a.9. Eligible passengers; accounts; funding of play; withdrawals.
830a.10. Compulsive and problem gaming; self-exclusion.
830a.11. Commencement of multiuse computing device gaming.

§ 830a.1. Scope.

The purpose of this chapter is to govern the operation of interactive gaming at qualified airports through the use of multiuse computing devices in this Commonwealth. The provisions of 4 Pa.C.S. §§ 1101—1904 (relating to Pennsylvania Race Horse Development and Gaming Act) as amended by the act of October 30, 2017 (P.L. 419, No. 42), and the Board regulations promulgated thereunder shall apply when not in conflict with this chapter.

§ 830a.2. Board authorization required.

(a) Upon petition, the Board may authorize an interactive gaming certificate holder to provide for the conduct of interactive gaming, directly or indirectly through an interactive gaming operator under an interactive gaming agreement, at a qualified airport through the use of multiuse computing devices by eligible passengers in an airport gaming area.

(b) If the interactive gaming certificate holder intends to operate interactive gaming at a qualified airport through the use of multiuse computing devices under an interactive gaming agreement, the interactive gaming operator that is party to the interactive gaming agreement shall have been issued an interactive gaming license or will be issued an interactive gaming license prior to the commencement of operations.

(c) The interactive gaming agreement shall be subject to the review and approval of the Board.

(d) The interactive gaming certificate holder or interactive gaming operator may only offer on the interactive gaming system on the multiuse computing devices the categories of interactive gaming it has been authorized to offer under 4 Pa.C.S. § 13B11(a.2) (relating to authorization to conduct interactive gaming).

§ 830a.3. Airport authority or concession operator agreements.

(a) Prior to petitioning for authorization from the Board an interactive gaming certificate holder or interactive gaming operator on behalf of an interactive gaming certificate holder shall have in place an agreement as follows:

(1) For the conduct of interactive gaming at a qualified airport which is located partially in a county of the first class and partially in a county contiguous to a county of the first class, the written agreement shall be with either the airport authority or its designee or a concession operator, except that, if the written agreement is with a concession operator, the airport authority or its designee must have approved or consented to lawful gaming within the airport gaming area through the concession operator's

concession contract, and the airport authority must have received a copy of the written agreement with the certificate holder or the interactive gaming operator.

(2) For the conduct of interactive gaming at a qualified airport which is not located partially within a county of the first class and partially in a county contiguous to a county of the first class, the written agreement shall be with the airport authority or its designee.

(b) The written agreement shall be subject to the review and approval of the Board.

§ 830a.4. Multiuse computing device gaming petition and standards of review.

(a) An interactive gaming certificate holder or interactive gaming operator on behalf of an interactive gaming certificate holder seeking to offer interactive gaming at a qualified airport through the use of multiuse computing devices in this Commonwealth that satisfies the requirements in 4 Pa.C.S. § 13B20 (relating to authorization) may petition the Board for authorization in accordance with this chapter.

(b) The petition filed by an interactive gaming certificate holder or interactive gaming operator on behalf of an interactive gaming certificate holder shall comply with the requirements of 4 Pa.C.S. § 13B20(c) and shall be in a form as proscribed by the Board.

(c) The Board shall approve the petition submitted under subsection (a) upon review and approval of the information submitted under subsection (b) and a determination by the Board by clear and convincing evidence that:

(1) The interactive gaming certificate holder and the interactive gaming operator, if applicable, have paid all required fees and taxes payable.

(2) The interactive gaming certificate holder, or the interactive gaming operator, as the case may be, possesses the necessary funds or has secured adequate financing to commence the conduct of interactive gaming at the qualified airport.

(3) The proposed internal and external security and surveillance measures at the qualified airport and within the airport gaming area are adequate.

(4) Interactive gaming at the qualified airport will be conducted and operated in accordance with this chapter.

§ 830a.5. Multiuse computing device gaming fees and taxes.

(a) Upon authorization from the Board to conduct interactive gaming at a qualified airport through the use of multiuse computing devices, an interactive gaming certificate holder or interactive gaming operator shall pay a one-time, nonrefundable fee, which upon receipt by the Board shall be deposited in the General Fund.

(b) The amount of the authorization fee paid shall be as provided for in 4 Pa.C.S. § 13B20.3 (relating to fee).

(c) If a qualified airport that is not initially determined to be an international airport under this chapter pays the lower fee amount as dictated by § 13B20.3(a)(2)(iv), but later becomes an international airport, the qualified airport shall pay the difference between the lower fee amount and the higher fee amount dictated by § 13B20.3(A)(2)(IV) as a condition of continued offering of interactive gaming through multiuse computing devices.

(d) An interactive gaming certificate holder or interactive gaming operator authorized to conduct interactive gaming at a qualified airport shall report to the Department of Revenue and pay the multiuse gaming device tax and multiuse gaming device local share assessment as required by the Act on the gross interactive airport gaming revenue from multiuse computing devices in qualified airports.

§ 830a.6. Licensure requirements.

(a) Any interactive gaming operator, interactive gaming manufacturer, interactive gaming supplier or interactive gaming service provider seeking to participate in the conduct of interactive gaming through the use of multiuse computing devices by eligible passengers in an airport gaming area shall have been issued a license, certification, registration or other authorization from the Board to participate in interactive gaming in accordance with Chapters 803a and 805a—807a. For purposes of this section, a concession operator shall be licensed as an interactive gaming supplier.

(b) Any interactive gaming principal, interactive gaming key employee or interactive gaming employee seeking to participate in the conduct of interactive gaming through the use of multiuse computing devices by eligible passengers in an airport gaming area shall have been issued a license, permit, registration or other authorization from the Board in accordance with Chapter 808a (relating to interactive gaming principals and key, gaming and nongaming employees).

(c) Any employee of a concession operator as defined in the Act and this subpart whose job duties include oversight, management, maintenance or other tasks involving interactive gaming through multiuse computing devices at a qualified airport, including but not limited to handling player complaints, providing player assistance or supervising play on the multiuse computing devices, must be licensed as an interactive gaming employee.

(d) The Board may, in its discretion, determine at any time that other entities or employees not described in the preceding subparagraphs shall be licensed, permitted, certified, registered or otherwise authorized by the Board.

§ 830a.7. Multiuse computing device and gaming platform requirements.

(a) A multiuse computing device must:

(1) Be located and accessible to eligible passengers only in an airport gaming area.

(2) Allow an eligible passenger to play an authorized interactive game. To ensure the multiuse computing device is operated only by an eligible passenger, the device shall provide for verification of age and passenger status through automated means on the device, unless otherwise approved by the Board.

(3) Be approved by the Board.

(4) Communicate with a server that is in a location approved by the Board.

(5) Have the capability of providing all necessary reports for calculation of gross interactive airport gaming revenue as required by the Department.

(6) Be tethered or otherwise secured in a manner to prevent removal from the airport gaming area.

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

(i) An interactive gaming certificate holder, interactive gaming operator or concession operator may restrict

access to other interactive gaming web sites in the Internet browsing function on the multiuse computing device.

(ii) An interactive gaming certificate holder, interactive gaming operator or concession operator shall not, acting directly or indirectly in concert with an airport authority or other entity, restrict access to other interactive gaming web sites on public wireless Internet offered to persons at a qualified airport.

(8) Be equipped with software or a program that would allow an authorized onsite interactive gaming employee to temporarily disable the device or terminate an interactive gaming session.

(b) The interactive gaming system and interactive gaming platform used to conduct interactive gaming through the use of multiuse computing gaming devices at a qualified airport shall be subject to the requirements set forth in Chapters 809a and 810a (relating to interactive gaming platform requirements; and interactive gaming testing and controls) as they relate to the conduct of interactive gaming through the use of multiuse computing devices.

(c) The interactive gaming system and interactive gaming platform used to conduct interactive gaming through the use of multiuse computing devices by eligible passengers at a qualified airport shall not be subject to the requirement of § 809a.7 (relating to geolocation requirements).

§ 830a.8. Multiuse computing device gaming accounting and internal controls; required reports.

(a) The interactive gaming certificate holder or interactive gaming operator offering interactive gaming through multiuse computing devices at a qualified airport in an airport gaming area shall be subject to the requirements of Chapter 811a (relating to interactive gaming accounting and internal controls).

(b) If applicable, the internal controls shall include protocols and procedures for the involvement of a concession operator and its employees in the offering of interactive gaming through multiuse computing devices at a qualified airport in an airport gaming area, including but not limited to licensure of employees, account funding and withdrawals, handling player complaints, providing player assistance, supervising play on the multiuse computing devices or other items the Board may request be included in the internal controls.

(c) The interactive gaming system used to offer interactive gaming through multiuse computing devices at a qualified airport in an airport gaming area shall be designed to generate reports as specified by the Board which comply with the requirements of § 811a.9(a)—(c) (relating to required reports; reconciliation).

§ 830a.9. Eligible passengers; accounts; funding of play; withdrawals.

(a) Prior to engaging in interactive gaming through multiuse computing devices at a qualified airport in an airport gaming area, the player shall be verified as an eligible passenger, as defined in this subpart, by automated means provided on the multiuse computing device, or as otherwise approved by the Board.

(b) An eligible passenger shall create an account with the interactive gaming certificate holder, interactive gaming operator or concession operator, which shall last for the duration of the player's interactive gaming session and the withdrawal of the player's winnings, if applicable.

(i) If a player has established an interactive gaming account under Chapter 812a (relating to interactive gaming player accounts) with an interactive gaming certificate holder or interactive gaming operator who also offers interactive gaming through multiuse computing devices at a qualified airport in an airport gaming area, the player may use his or her established interactive gaming account to engage in interactive gaming on the multiuse computing device.

(c) A player's account may be funded through the use of all of the following:

(1) A player's credit card or debit card, including prepaid cards.

(2) A player's reloadable prepaid card.

(3) Cash complimentaries, promotional credits or bonus credits.

(4) Automated clearing house (ACH) transfer, provided that the interactive gaming certificate holder, interactive gaming operator, or concession operator has security measures and controls to prevent ACH fraud.

(5) Any other means as approved by the Board.

(d) An interactive gaming certificate holder, interactive gaming operator or concession operator shall establish protocols for players to withdraw funds at the end of the player's interactive gaming session in accordance with its approved internal controls.

(e) Funds may be withdrawn from the player's account at the end of the interactive gaming session through the use of all of the following:

(1) The issuance of a check from the interactive gaming certificate holder, interactive gaming operator or concession operator.

(2) Transfer to a player's reloadable prepaid cash card.

(3) Transfer directly to the player's individual account with a bank or other financial institution (banking account) provided that the interactive gaming certificate holder, interactive gaming operator or concession operator verifies the validity of the account with the financial institution.

(4) Any other means approved by the Board.

§ 830a.10. Compulsive and problem gaming; self-exclusion.

(a) Any interactive gaming certificate holder or interactive gaming operator seeking to participate in the conduct of interactive gaming through the use of multiuse computing devices by eligible passengers at a qualified airport in an airport gaming area shall comply with the provisions of Chapters 814a and 815a (relating to compulsive and problem gambling requirements; and interactive gaming self-excluded persons).

§ 830a.11. Commencement of multiuse computing device gaming.

(a) Prior to the commencement of interactive gaming through multiuse computing devices at a qualified airport in an airport gaming area, an interactive gaming certificate holder or interactive gaming operator shall submit all of the required information set forth in § 817a.2(a) (relating to commencement of operations generally), excluding the Geolocation compliance information from § 817a.2(a)(8)(ii).

(b) Prior to commencement of operations, the interactive gaming certificate holder's, interactive gaming operator's or concession operator's interactive gaming princi-

pals, interactive gaming key employees or interactive gaming employees shall be appropriately licensed or permitted and trained in the performance of their responsibilities.

(1) At all times when interactive gaming through the use of multiuse computing devices at a qualified airport in an airport gaming area is offered, the interactive gaming certificate holder, interactive gaming operator or concession operator shall have an adequate number of interactive gaming employees onsite, based upon quantity of multiuse computing devices available for use and the dimensions of the airport gaming area, at a number to be approved by the Board to handle matters related to the oversight, management, maintenance or other tasks involving interactive gaming through multiuse computing devices, including but not limited to player complaints, providing player assistance or supervising play on multiuse computing devices.

(2) If at any time it appears or is reported to an interactive gaming employee or employees that the multiuse computing device is being operated in violation of this chapter and this subpart, the interactive gaming employee shall terminate the interactive gaming session, with the procedure for termination to be detailed in the internal controls.

(c) Prior to commencement of operations, the interactive gaming certificate holder, interactive gaming operator or concession operator licensee shall ensure that new and existing employees of the interactive gaming certificate holder or interactive gaming operator, and employees of the concession operator licensed by the Board, are regularly informed about the restrictions in § 808a.1(g) (relating to general provisions), restricting the placement wagers on the interactive gaming sites offered by or associated with the interactive certificate holder, interactive gaming operator or concession operator.

(d) Prior to commencement of operations, the interactive gaming certificate holder or interactive gaming operator shall have successfully completed a test period.

[Pa.B. Doc. No. 21-1379. Filed for public inspection August 27, 2021, 9:00 a.m.]