

12-18-06

# Regulatory Analysis Form

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INDEPENDENT REGULATORY REVIEW COMMISSION

IRRC Number: 2596

(1) Agency

Revenue

(2) I.D. Number (Governor's Office Use)

15-436

(3) Short Title

Pennsylvania Gaming Cash Flow Management

(4) PA Code Cite

61 Pa. Code §§ 1001.1 – 1001.11

(5) Agency Contacts & Telephone Numbers

Primary Contact: Mary Sprunk (717) 783-7524  
Secondary Contact: Douglas A. Berguson (717) 346-4633

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
- Final Order Adopting Regulation
- Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
- Yes: By the Attorney General
- Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The Department of Revenue is proposing regulations to facilitate its responsibilities under the Pennsylvania Race Horse Development and Gaming Act (4 Pa.C.S. §§ 1101-1904). Under section 1501(c) of the act, the Department proposes that the temporary regulations added in Chapter 1001 as published at 36 Pa.B. 3450 (July 1, 2006); Correction published at 36 Pa.B. 3789 (July 15, 2006) become permanent regulations with amendments as required by Act 135 of 2006, as set forth in this rulemaking. This chapter established the procedures for the administration and distribution of all net slot machine revenue under the act. In addition, this chapter clarified the administrative procedures for transferring the statutorily established amounts of funding as prescribed in the act. The preamble explains the revisions that have been made to the regulations as required by Act 135 of 2006 which was effective November 1, 2006.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

The Pennsylvania Race Horse Development and Gaming Act, the act of July 5, 2004 (P.L. 572, No. 71) (Act 71) (4 Pa.C.S. §§ 1101 – 1904).

## Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The regulation is not mandated by any Federal law or court order.  
See answer to (9) above for the citation to the Pennsylvania law.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The regulation is necessary to clarify the Department of Revenue's responsibilities relating to the cash flow management for accurate accounting and collections of the different earmarked revenues due the Commonwealth from slot machine gaming operations.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

There is no public health, safety, environmental or general welfare risks associated with nonregulation.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Prospective licensed entities, as well as the general public, will benefit from having the Department's regulations consistent with the governing statute.

## Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No parties should be adversely affected by the regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

The Department, the Treasury Department, the Pennsylvania Gaming Control Board and entities licensed under the Pennsylvania Race Horse Development and Gaming Act will be required to comply with the regulation.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

A copy of the temporary regulation was forwarded to the Pennsylvania Bar Association, the Philadelphia Bar Association, the Pennsylvania Institute of Certified Public Accountants, the Pennsylvania Society of Public Accountants, and the Pennsylvania Chamber of Business and Industry. In addition, the temporary regulations were published on the Department's website in May, 2006 for public outreach comments.

The temporary regulations remain published on the Department's website for public viewing.

TO BE FILLED IN AFTER THE PUBLIC COMMENT PERIOD: The proposed regulation was published at 36 Pa.B. \_\_\_\_\_ (date). Public comments were received from \_\_\_\_\_

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The proposed rulemaking is designed to bring the Department's regulations into conformity with the Pennsylvania Race Horse Development and Gaming Act and will not have an impact on state revenues.

## Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

This permanent regulation does not increase costs or savings to local governments. No legal accounting or consultant procedures are required by this regulation.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

This permanent regulation does not increase costs or savings to state government by any significant amount.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
<b>Total Savings</b>						
<b>COSTS:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Costs</b>						
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Revenue Losses</b>						

(20a) Explain how the cost estimates listed above were derived.

There are no savings from implementing this permanent regulation.  
 There are no costs for implementing this permanent regulation.

## Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
	NA	NA	NA	NA

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

This permanent regulation does not alter existing law. The permanent regulation serves to clarify the Department of Revenue's responsibilities in terms of slot machine gaming regulations.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

There are no nonregulatory alternatives associated with this regulation.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

There are no nonregulatory alternatives associated with this regulation.

## Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

This regulation relates to gaming cash flow management. There is no comparative Federal statute.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The regulations will not put Pennsylvania at a competitive disadvantage with other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

Temporary regulations are currently in effect as published at 36 Pa.B. 3450 (July 1, 2006); Correction published at 36 Pa.B. 3789 (July 15, 2006). The temporary regulations will expire no later than 3 years following the effective date of the act (July 5, 2007) or upon promulgation of the regulations as generally provided by law.

This regulation does not affect any other existing or proposed regulation of any other state agency.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Department has not scheduled any public hearings or informational meetings to discuss the regulation.

## Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

This regulation does not change existing reporting, record keeping, or other paperwork requirements.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

No special provisions were determined to be necessary.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

Temporary regulations are currently in effect as published at 36 Pa.B. 3450 (July 1, 2006); Correction published at 36 Pa.B. 3789 (July 15, 2006). The temporary regulations will expire no later than 3 years following the effective date of the act (July 5, 2007) or upon promulgation of the regulations as generally provided by law.

(31) Provide the schedule for continual review of the regulation.

This regulation is scheduled for review within five years of final publication. No sunset date has been assigned.



FACE SHEET  
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(Pursuant to Commonwealth Documents Law)

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DO NOT WRITE IN THIS SPACE  
INDEPENDENT REGULATORY  
REVIEW COMMISSION

Copy below is hereby approved as to form and legality. Attorney General

*[Signature]*

By: \_\_\_\_\_  
(Deputy Attorney General)

FEB 12 2007

DATE OF APPROVAL

Check if applicable  
Copy not approved. Objections attached.

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

PA Department of Revenue  
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 15-436

DATE OF ADOPTION \_\_\_\_\_

BY *[Signature]*  
Gregory C. Fajt  
TITLE Secretary of Revenue  
(Executive Officer, Chairman or Secretary)

Copy below is hereby approved as to form and legality. Executive or Independent Agencies

*[Signature]*  
BY Andrew C. Clark

JAN 18 2007

DATE OF APPROVAL

(Deputy General Counsel)  
(Chief Counsel Independent Agency)  
(Strike inapplicable title)

Check if applicable. No Attorney General Approval or objection within 30 days after submission.

NOTICE OF PROPOSED RULEMAKING

DEPARTMENT OF REVENUE

61 Pa. Code §§ 1001.1 - 1001.11

Pennsylvania Gaming Cash Flow Management

PREAMBLE

The Department of Revenue (Department) is proposing regulations to facilitate its responsibilities under the Pennsylvania Race Horse Development and Gaming Act (act) (4 Pa.C.S. §§ 1101 - 1904), as assisted by the Department's temporary regulations adopted at 36 Pa.B. 3450 (July 1, 2006); Correction published at 36 Pa.B. 3789 (July 15, 2006). Under section 1501(c) of the act (relating to responsibility and authority of department) the Department proposes that the temporary regulations added in Chapter 1001 (relating to Pennsylvania gaming cash flow management) become permanent regulations as set forth in Annex A.

The act went into effect July 5, 2004, requiring that the temporary regulations be adopted within 2 years (July 5, 2006). The temporary regulations will expire no later than 3 years following the effective date of the act (July 5, 2007) or upon promulgation of regulations as generally provided by law. On November 1, 2006, the act was amended by Act No. 135 of 2006 (Senate Bill 862, P.N. 2218).

Purpose of Regulation

The act legalizes the operation of slot machines at a number of venues across this Commonwealth. The Pennsylvania Gaming Control Board (Board) will have primary responsibility for regulatory oversight of gaming activity in this Commonwealth and

is separately promulgating regulations in 58 Pa. Code (relating to recreation).

The act required that the Department adopt temporary regulations by July 5, 2006, to facilitate prompt implementation of its responsibilities as defined by the act. The Department is proposing these regulations as a prelude to its adoption of the final-form regulations by July 5, 2007.

#### Explanation of Regulatory Requirements

The Department has several important responsibilities in connection with the implementation and control of slots gaming. The creation of Chapter 1001 during the temporary regulations process addressed these responsibilities and will be made permanent in this proposed rulemaking relating to cash flow management for accurate accounting and collection of the different earmarked revenues due the Commonwealth from slot machine gaming operations.

Changes to the temporary regulations include:

Section 1001.5 (relating to administration and distribution of moneys held by licensed gaming entities and the Commonwealth) is amended in subsection (a) to delete the word "Treasury" in accordance with Act 135 of 2006. Subsection (b) is amended to delete subparagraph (iii) regarding delegation of payment authority and renumbered the subparagraphs accordingly. Act 135 of 2006 eliminated the need for the "delegation of authority"

provision. In addition, paragraph (2) in subsection (b) is amended to delete the phrase "for each banking day." Paragraph (5) is amended under subparagraph (iii) to delete the word "banking" from the phrase banking days. Revisions to paragraphs (2) and (5) are being made for ease of administration in performing our statutory obligations.

Section 1001.6 (e) (relating to administration of amounts deposited by licensed gaming entities with Treasury to pay Commonwealth gaming related costs and expenses) is amended by deleting language and adding language addressing periodic assessments, appropriations by the General Assembly and itemized budget requirements. These amendments are in accordance with Act 135 of 2006.

Section 1001.8 (relating to State Gaming Fund transfers) is amended in subsection (c)(2) to change the month for publication of the annual inflation adjustment from July 1 to January 1. Subsection (d) is amended to remove the word "daily." In addition, paragraphs (2) and (3) under subsection (d) are amended to remove the words "each banking day." Revisions to this section are being made for ease of administration in performing our statutory obligations.

Section 1001.10(d) (relating to Pennsylvania Race Horse Development Fund transfers) is amended with new clarification

language for Category 1 licensee "conducting live racing" and "eligible" Category 1 licensee.

Section 1001.11 (relating to Property Tax Relief Fund transfers) is amended to add clarification language of "and other applicable laws."

#### Affected Parties

Licensed entities, manufacturers and suppliers of gaming supplies in this Commonwealth, as well as the manufacturer of the Central Control Computer System will be affected by the regulation.

#### Fiscal Impact

The Department has determined that the overall implementation expenses will be minimal for implementing the statute and regulation.

#### Paperwork

The proposed amendment will require minimal paperwork for the public or the Commonwealth.

The Department will annually publish notices in the Pennsylvania Bulletin by January 1 to announce the annual inflation adjustment of the distributions to municipalities.

#### Effectiveness/Sunset Date

The regulation will become effective upon final publication in the Pennsylvania Bulletin. The regulation is scheduled for

review within five years of final publication. No sunset date has been assigned.

Contact Person

Interested persons are invited to submit in writing any comments, suggestions, or objections regarding the proposed amendment to Mary R. Sprunk, Office of Chief Counsel, PA Department of Revenue, P. O. Box 1061, Harrisburg, Pennsylvania 17128-1061, within thirty (30) days after the date of the publication of this notice in the Pennsylvania Bulletin.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on *February 21, 2007* the Department submitted a copy of this proposed amendment to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance. In addition to submitting the amendment, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

The Committees may, at any time prior to the submittal of the final-form regulation, convey to the agency and the Commission, their comments, recommendations and objections to the proposed regulation. The Independent Regulatory Review Commission may,

within 30 days of the close of the public comment period, submit to the agency and Committees any comments, recommendations and objections to the proposed regulation. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review of objections raised, prior to final publication of the amendments, by the Department, the General Assembly and the Governor.

GREGORY C. FAJT  
SECRETARY OF REVENUE

12/06/06

CONTINUATION SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU  
(Pursuant to Commonwealth Documents Law)

ANNEX A

Title 61. Revenue, Part IX. Pennsylvania Gaming Cash Flow Management, Chapter 1001. Pennsylvania Gaming Cash Flow Management.

GENERAL PROVISIONS

Editor's note: The Department is proposing to make permanent the Temporary Regulations published at 36 Pa.B. 3450 (July 1, 2006); Correction published at 36 Pa.B. 3789 (July 15, 2006) with amendments as required by Act 135 of 2006.

§ 1001.1. Scope.

This chapter establishes procedures for the administration and distribution of all net slot machine revenue under the act. In addition, this chapter clarifies the administrative procedures for transferring the statutorily established amounts of funding as prescribed in the act.

§ 1001.2. Purpose.

The purpose of this chapter is to notify prospective licensed entities, as well as the general public, of the procedures and requirements for distributing net slot machine revenue.

§ 1001.3. Definitions.

The following words and terms, when used in this



chapter, have the following meanings, unless the context clearly indicates otherwise.

Act--The Pennsylvania Race Horse Development and Gaming Act of 2004 (Act 71) (4 Pa.C.S. §§ 1101--1904).

Annual minimum distribution--Other than for a Category 3 licensee, 2% of the gross terminal revenue of the licensed gaming entity or \$10 million, whichever is greater.

Banking day--The part of any day that the Federal Reserve has established for a bank to be opened to the public for carrying on substantially all of its banking functions.

Board--The Pennsylvania Gaming Control Board of the Commonwealth.

CCS--The central control computer system controlled by the Department and accessible by the Board, to which all slot machines communicate for the purpose of recording, reviewing, reporting and auditing real-time information regarding the events that occur during the operation of a slot machine. This includes distinguishing between daily deposits made by licensed gaming entities of taxes due on play of slot machines and all other transfers of moneys to Commonwealth accounts not considered a daily deposit under this chapter.

Collection Account--A Department bank account authorized by the Treasury for the collection of taxes and other payments received from licensed gaming entities and which is maintained and reconciled by the Department.

Concentration Account--A Treasury bank account used for the deposit and disbursement of all recognized Commonwealth moneys and which is maintained and reconciled by the Treasury Department.

Credit against tax--Credit established if the tax rate imposed by section 1403 of the act (relating to establishment of State Gaming Fund and net slot machine revenue distribution) upon slot machine daily gross terminal revenue is increased at any time during the term of 10 years following the initial issuance of the slot machine license.

Department--The Department of Revenue of the Commonwealth.

EFT--Electronic funds transfer.

Fund--A fiscal and accounting entity with a self-balancing set of accounts recording cash and other financial resources, together with all related liabilities and residual equities or balances and the changes therein, that are segregated for the purpose of carrying on specific activities or attaining certain objectives established for

the receipt of gross terminal revenue distributions under the act.

Gross terminal revenue--As defined in section 1103 of the act (relating to definitions).

Licensed gaming entity--As defined in section 1103 of the act.

Manufacturers--As defined in section 1103 of the act.

Pennsylvania Gaming Economic Development and Tourism Fund--The fund established under section 1407 of the act (relating to Pennsylvania Gaming Economic Development and Tourism Fund).

Pennsylvania Race Horse Development Fund--The fund established under section 1405 of the act (relating to Pennsylvania Race Horse Development Fund).

Property Tax Relief Fund--The fund established under section 1409 of the act (relating to Property Tax Relief Fund).

Race Horse Improvement Daily Assessment--The amount each operating licensed gaming entity shall pay daily to the Department, according to Department calculations.

State Gaming Fund--The fund established under section 1403 of the act.

Suppliers--As defined in section 1103 of the act.

Treasury--The Treasury Department of the Commonwealth.

§ 1001.4. Calculations of credit against tax and Race Horse Improvement Daily Assessment.

(a) Credit against tax. The amount of the credit must be equal to the difference between the tax calculated at the rate in effect when a license was issued to the licensed gaming entity and the tax calculated at the increased rate. The credit shall be applied on a dollar-for-dollar basis but may not extend beyond the 10-year period following the initial issuance of the license.

(b) Race Horse Improvement Daily Assessment. The amount of this assessment shall be calculated in accordance with section 1405(b) of the act (relating to Pennsylvania Race Horse Development Fund). This assessment shall be multiplied by 18% of daily gross terminal revenue for all active and operating Category 1 licensed gaming entities that are conducting live racing. The amount may not exceed 12% of that day's gross terminal revenue for that licensed gaming entity, and shall be subject to the daily assessment cap established under section 1405 (c) of the act.

§ 1001.5. Administration and distribution of moneys held by licensed gaming entities and the Commonwealth.

(a) This section applies to all transfers of moneys to and from the State Gaming Fund, Pennsylvania Gaming Economic Development and Tourism Fund, Pennsylvania Race

Horse Development Fund[, Treasury] and any other fund as specified in this chapter.

(b) Deposits and transfers to Treasury by licensed gaming entities.

(1) The Department will notify each licensed gaming entity, Treasury and Office of the Budget of the actual amount each licensed gaming entity shall be required to deposit with Treasury as calculated by the CCS. A licensed gaming entity shall make deposits with Treasury on the same banking day as the date of the Department's notice to the licensed gaming entity and by the times specified by the Department.

(2) Payments shall be electronically transferred by the licensed gaming entities and available to the Commonwealth by the deadline established by the Department [for each banking day]. Moneys shall be deposited in the Department's Collection Account.

(3) System problems or failures, such as power outages and states of emergency, will not excuse the licensed gaming entity from making the required deposits in a timely manner. The licensed gaming entity shall immediately notify the Department and the Board of any of these problems.

(4) The Department will maintain records of deposits to the Department's Collection Account under this chapter and will share information, as practicable, to assist Treasury in its reconciliation of deposits into its Concentration Account.

(5) The administration of assessments will be as follows:

(i) Proration of assessment. Upon imposition of the annual minimum distribution amount, as specified in section 1403(c)(3) of the act (relating to establishment of State Gaming Fund and net slot machine revenue distribution), regardless of whether the minimum is subject to the budgetary limitations of section 1403 of the act, the required minimum shall be prorated for that portion of the municipality's fiscal year that the Board determines that the licensed gaming entity was actually in operation.

(ii) Limitation of assessment. Upon imposition of the minimum distribution upon the licensed gaming entity, the required minimum shall be paid in accordance with the administrative procedures of this section.

(iii) [Delegation of payment authority. At the direction of the Board, the licensed gaming entity

shall authorize the Department to remit payments previously collected from the licensed gaming entity, on behalf of the licensed gaming entity, under section 1403(c)(3) of the act, when the licensed gaming entity is charged with remitting payments to municipalities.

(iv)] Distributions of local share assessments to municipalities. If a licensed gaming entity fails to reach the requisite annual minimum distribution as required under the act within 15 [banking] days following the end of the municipality's fiscal year, the Department will notify the licensed gaming entity of the shortfall and the amount to be remitted. A licensed gaming entity shall remit the difference required to meet the requisite annual minimum distribution as required under the act within 15 [banking] days following the end of the municipality's fiscal year. The licensed gaming entity shall remit the required payment to the Department for distribution in accordance with the act. Distributions specified in this chapter shall be made by the licensed gaming entity to the Department or the respective municipality, no later than 15 [banking] days from the Department's notice of the shortfall.

[(v)] (iv) Distributions of local share assessments to counties. The Department will make

distributions in accordance with section 1403(c)(2) of the act. If the minimum distribution exceeds the applicable annual municipal allocation cap set forth in section 1403(c)(3) of the act, the amount in excess of the municipal allocation cap shall be distributed by the Department in accordance with section 1403(c)(2) of the act.

(6) The Department reserves the right, upon notice served upon the licensed gaming entity and the Board, to temporarily disable the licensed gaming entity's slot machines through the CCS until the Department receives verification that the required deposit has been made.

§ 1001.6. Administration of amounts deposited by licensed gaming entities with Treasury to pay Commonwealth gaming related costs and expenses (\$5 million).

(a) No later than 2 business days prior to the commencement of slot machine operations, the licensed gaming entity shall deposit \$5 million in the Department's Collection Account. Upon transfer of the \$5 million deposit into Treasury's Concentration Account, the deposit shall be credited to an account established in Treasury for the licensed gaming entity. The account established shall also be used to recognize and account for all future deposits required from the licensed gaming entity by the Department



for administrative costs and all future withdrawals made by the Department for reimbursement of administrative costs.

(b) Each licensed gaming entity shall maintain a minimum account balance with Treasury of \$5 million.

(c) Moneys related to this account shall be transferred to the Department's Collection Account and from Treasury by EFT or other methods of funds transfer in accordance with § 1001.5(b) (relating to administration and distribution of moneys held by licensed gaming entities and the Commonwealth).

(d) If the account balance with Treasury of a licensed gaming entity falls below the \$5 million minimum deposit amount, as a result of the licensed gaming entity's failure to make replenishments as directed by the Department, the Department will request that the Board utilize its reserved right to draw amounts from any other source of the licensed gaming entity and deposit the draw amount in the account specified by subsection (a) as necessary, to maintain the required minimum account balance. To fulfill the licensed gaming entity's obligations under this section, nothing prohibits the Board from drawing against any source of the licensed gaming entity, with the exception of any licensed gaming entity

account that holds gross terminal revenue[,] to be deposited with Treasury in accordance with § 1001.5.

(e) Reimbursement of Commonwealth expenses.

(1) The Department will issue to the licensed gaming entity, periodic assessments of expenses incurred by the Board, Department, Office of Attorney General, the Pennsylvania State Police and any other Commonwealth entity charged with administrative duties under the act, regarding expenses directly related to the licensed gaming entity, under budgets approved by the Board and upon appropriation by the General Assembly as required in section 1402.1 (relating to itemized budget reporting) of the act. Expenses not included in budgets approved by the Board may not be assessed against [the account of] the licensed entity under this section.

(2) Expenses incurred by the Commonwealth and assessed to the licensed gaming entity shall be charged back to the licensed gaming entity and deducted from the licensed gaming entity's account, as specified in section 1401 of the act (relating to slot machine licensee deposits) and this section.

(3) General administrative costs of the Commonwealth not specifically assessed to a licensed gaming entity under paragraph (1), shall be borne by each licensed

gaming entity at the discretion of the Secretary of Revenue [on a prorata basis, determined by dividing the amount of the individual licensed gaming entity's gross terminal revenue by the total amount of gross terminal revenue of all licensed gaming entities. The allocation of expenses under this subsection, and not specifically allocated under paragraph (2) shall be subject to amendment by the Board].

§ 1001.7. Deposits of license, permit and other fees.

The fees for manufacturers' and suppliers' licenses, employment permits and other licenses and permits as the Board may require, excluding license fees paid for Categories 1, 2 and 3 licenses under sections 1209 and 1305 of the act (relating to slot machine license fee; and Category 3 slot machine license), shall be deposited with Treasury into a restricted receipt account within the State Gaming Fund. The fees deposited will be transferred from a restricted receipt account into a restricted revenue account of the State Gaming Fund to be used by the Board to pay its operating expenses. License fees paid for Categories 1, 2 and 3 licenses under sections 1209 and 1305 of the act shall be paid into the State Gaming Fund in accordance with sections 1209(d) and 1305 of the act.

§ 1001.8. State Gaming Fund transfers.

(a) Application of section. This section applies to the transfers of moneys to and from the State Gaming Fund.

(b) Establish restricted receipt accounts. The Governor's Budget Office has the authority to establish restricted receipt accounts as required to facilitate transfers of moneys to and from the State Gaming Fund.

(c) Quarterly distributions. Quarterly distributions from the State Gaming Fund to counties or municipalities in which a licensed facility is located, as determined by the Board, and as specified in Chapter 14 of the act (relating to revenues), shall be performed in accordance with the Governor's Management Directive 305.4 (relating to payments to counties) and the following provisions:

(1) The Department will submit payment requisitions, accompanied by documentation, to the Office of the Budget for payment through Treasury. Payments shall be made payable to the board of county commissioners of the county, or in the case of home rule charter counties, to the chief executive officer of the county, or in the case of counties of the first class coterminous with cities of the first class, to the city treasurer, on behalf of the agency designated as recipient of the payment or disbursement to be credited to the account of the recipient agency for use as specified in the documentation.

(2) The Department will determine the annual inflation adjustment and will publish notice of the inflation adjustment in the *Pennsylvania Bulletin* by [July 1] January 1 of each year.

(3) The Department will make distributions quarterly, no later than 30 days following the end of each calendar quarter.

(d) Tax and credit against tax.

(1) Determinations of gross terminal revenue and the calculations of taxes due will be determined [daily] by the Department based on the actual calculations by the CCS.

(2) [Each banking day, t] The Department will notify each licensed gaming entity and Treasury of the amount of tax due to the Commonwealth.

(3) [Each banking day, e] Each licensed gaming entity shall deposit the amount specified in paragraph (2) into the Department's Collection Account, in the manner prescribed by § 1001.5(b) (relating to administration and distribution of moneys held by licensed gaming entities and the Commonwealth).

(4) The Department will enter into an agreement with each licensed gaming entity setting forth the terms and conditions of any credit against tax as claimed by the licensed gaming entity.

(5) Taxes due as determined by the Department shall remain payable by the licensed gaming entity to the Department in accordance with section 1501(a) of the act (relating to responsibility and authority of department) regardless of any discrepancies between the licensed gaming entity's [daily] calculation and that of the Department's or amounts contested by any party concerning the credit against taxes due. Resolution of disputed [daily] payments due will be addressed by the Department through adjustments it makes to its calculation of future [daily] payment due amounts. The Department may make adjustments to its calculation of future [daily] payment due amounts after resolution of any dispute regarding the amount of taxes due. The Department will provide notice to the Board of the final calculations of taxes due under this subsection.

(6) Any [daily] remittance due that is caused by the imposition of the tax on nonbanking days as well as holidays shall be remitted by the licensed gaming entity on the next banking day. For example, any tax that has accrued on Independence Day shall be transferred on the following banking day.

(e) Imposition of a penalty. Failure to comply with this section that results in the failure to transmit the requisite amounts to the Department's Collection Account or

to any other fund of the Commonwealth, shall result in the imposition of a penalty of 5% per month up to a maximum of 25% of the amounts due and unpaid by the licensed gaming entity. Payments made by a licensed gaming entity toward delinquent amounts, including penalties, shall be allocated to the licensed gaming entity's delinquency in accordance with the priority of payments as specified under section 209 of the Taxpayers' Bill of Rights (72 P. S. § 3310-209).

§ 1001.9. State Gaming Economic Development Tourism Fund transfers.

(a) Department personnel will notify the respective licensed gaming entity and Treasury of the amounts the licensed gaming entity shall be required to deposit in the Department's Collection Account. Deposits shall be made on the same banking day as the date of the notice by the Department.

(b) Moneys shall be transferred by the licensed gaming entity by EFT or other method the Department may require and shall be deposited in the Department's Collection Account prior to being transferred to Treasury's Concentration Account.

(c) System problems or failures, such as power outages and states of emergency, will not excuse the licensed gaming entity from making the required deposits in

a timely manner. The licensed gaming entity shall immediately notify the Department and the Board of the problems.

(d) The Department will maintain records of the Department's Collection Account under this chapter and will share information as practicable, to assist Treasury in its reconciliation of deposits into its Concentration Account.

§ 1001.10. Pennsylvania Race Horse Development Fund transfers.

(a) Prior to making each Race Horse Improvement Daily Assessment against a licensed gaming entity, the Department will determine the amount of each licensed gaming entity's gross terminal revenue.

(b) Eighteen percent of the gross terminal revenue of each Category 1 licensed gaming entity shall be returned to each active and operating Category 1 licensed gaming entity that conducts live racing subject to the assessment cap in section 1405(c) of the act (relating to Pennsylvania Race Horse Development Fund), and subject to the allocations specified in section 1406(a)(1)(i)--(iii) of the act (relating to distributions from Pennsylvania Race Horse Development Fund).

(c) Procedures concerning Pennsylvania Race Horse Development transfers are as follows:



(1) Department personnel will notify the respective licensed gaming entity and Treasury of the actual amount each licensed gaming entity shall be required to deposit in the Department's Collection Account as determined by the CCS. Deposits shall be made on the same banking day as the date of the notice by the Department.

(2) Moneys shall be transferred by the licensed gaming entity by EFT or other method as the Department may require and shall be deposited in the Department's Collection Account prior to being transferred to Treasury's Concentration Account.

(3) System problems or failures, such as power outages and states of emergency, will not excuse the licensed gaming entity from making the required deposits in a timely manner. The licensed gaming entity shall immediately notify the Department and the Board of any of these problems.

(4) The Department will maintain records of the Department's Collection Account under this chapter and will share information as practicable, to assist Treasury in its reconciliation of deposits to its Concentration Account.

(d) The Department will notify each active and operating Category 1 licensee conducting live racing, Treasury and Office of the Budget of the amounts each

active and operating Category 1 licensee conducting live racing will receive. [A] An eligible Category 1 licensee will receive from Treasury a weekly payment from the Pennsylvania Race Horse Development Fund in accordance with the act. The deposits required under section 1406(a)(1)(ii) will be deducted by the Department before making the payment to each active and operating licensee and transferred to the appropriate state fund, under section 1406 of the act.

(1) Payments shall be electronically transferred by the Commonwealth and shall be available to the licensee by the deadline established by the Department.

(2) Both Treasury and the Department will maintain records of distributions under this chapter and will share information, as practicable, to assist each agency in its reconciliation process.

(e) For purposes of the calculations and distributions of section 1406(a) of the act, live racing will be determined annually, and as a Category 1 licensed gaming entity commences live racing in accordance with section 1303(b) of the act (relating to additional Category 1 slot machine license requirements).

§ 1001.11. Property Tax Relief Fund transfers.

The Department will determine the appropriate amount of moneys to be transferred into the Property Tax Relief Fund. The moneys will be transferred only after all amounts of funding have been met concerning the transfers of money to the other Funds specified in section 1408 of the act (relating to transfers from State Gaming Fund) and other applicable laws.

12/11/06

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT

I.D. NUMBER: 15-436  
SUBJECT: PENNSYLVANIA GAMING CASH FLOW MANAGEMENT  
AGENCY: DEPARTMENT OF REVENUE

TYPE OF REGULATION

- X Proposed Regulation  
Final Regulation  
Final Regulation with Notice of Proposed Rulemaking Omitted  
120-day Emergency Certification of the Attorney General  
120-day Emergency Certification of the Governor  
Delivery of Tolled Regulation  
a. With Revisions                      b. Without Revisions

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REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
2/21/07	<i>Robert King</i>	HOUSE COMMITTEE ON FINANCE
2/21/07	<i>Gail Wilkinson</i>	
2/21/07	<i>Bob Jones</i>	SENATE COMMITTEE ON FINANCE
2/21	<i>Ju Heper</i>	
2/21/07	<i>Kathy Cooper</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
2/21/07	<i>C. Lee Brown</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)