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Regulatory Analysis Form

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INDEPENDENT REGULATORY
REVIEW COMMISSION

(1) Agency

Pennsylvania Gaming Control Board

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

125 - 71

IRRC Number:

2645

(3) Short Title

Amendments to Chapters 405a and 461a

(4) PA Code Cite

58 PA. Code
Chapters 405a and 461a

(5) Agency Contacts & Telephone Numbers

Primary Contact: Richard Sandusky
717-214-8111 / rsandusky@state.pa.us

(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 Board initially adopted Chapter 405a on June 23, 2007 (37 Pa.B. 2808) and Chapter 461a on July 21, 2007 (37 Pa.B. 3381). These amendments are intended to address changes in subsequently adopted chapters and changes in technology and to better conform the regulations to the Act.

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

§ 1202(b)(30) of the Act (4 Pa.C.S. § 1202(b)(30)) provides the Board with general authority to promulgate regulations the Board deems necessary to carry out the policy and purposes of the Act.

§§ 1517(a.1) and (a.2) (4 Pa.C.S. §§ 1517(a.1) and (a.2)) provide more specific authority for the amendments to Chapter 405a and §§ 1207 and 1320 (4 Pa.C.S. §§ 1207 and 1320) provide more specific authority for portions of Chapter 461a.

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(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.

No.

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

Promulgation of the amendments to Chapter 405a are necessary to conform provisions in Chapter 405a with provisions in Chapter 493a, update citations and make the language more consistent with the language of the Act and the Board's current organizational structure.

Promulgation of the amendments to Chapter 461a are necessary to delete an out-dated technical standard and remove provisions related to alternate testing and certification options that can no longer be used.

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

Failure to adopt these amendments could result in confusion to the regulated public as to what standards apply.

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

Manufacturers will benefit by having clearer standards relating to the testing and certification of slot machines.

Respondents to complaints will have a clear understanding of how much time they have to file a notice of defense and to request a hearing.

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.)

Because these regulations add clarity and greater conformity to the language of the Act, no one will be adversely affected by these changes.

(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.)

Manufacturers submitting slot machines for testing and certification will be affected by no longer being able to request alternate certification of their slot machines and related equipment. There are 16 currently licensed manufacturers.

Respondents to complaints will also be affected. The Board projects that there will be approximately 2000 complaints filed over the next 12 months.

(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.

No specific public input was solicited prior to the proposal of these amendments.

(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 Board anticipates that there will be no significant costs or savings to the regulated public as a result of these amendments.

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.

The Board anticipates that there will be no significant costs or savings to local governments as a result of these amendments.

(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.

By mailing Board orders by first class mail instead of certified mail, the Board estimates it will save up to \$10,000 annually.

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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
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
Total Savings	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
COSTS:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Costs	N/A	N/A	N/A	N/A	N/A	N/A
REVENUE LOSSES:	N/A	N/A	N/A	N/A	N/A	N/A
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	N/A

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

Certified mail costs an additional \$5.00 per mailing. Assuming 2000 mailings per year, this amounts to an annual savings of \$10,000.

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

Program	FY -3	FY -2	FY -1	Current FY
Board Budget	\$2,900,000	\$13,200,000	\$26,400,000	\$29,984,000

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

As noted in the previous responses, there are no anticipated costs associated with these amendments and there will be some minor savings to the Board.

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

There were no alternatives considered because the current regulations could only be changed by amending the current regulations.

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

No other regulatory schemes were considered.

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(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.

There are no corresponding Federal requirements.

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

Nothing in these amendments will 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.

These regulations will amend existing provisions in Chapters 405a and 461a in 58 PA. Code.

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

No additional hearings or meetings have been scheduled.

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(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.

The proposed amendments do not change or add new reporting, record keeping or 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 have been added.

(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?

These regulations will be effective upon publication as a final rule in the *Pennsylvania Bulletin*.

It is anticipated that final regulations will be adopted in the first quarter of 2008.

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

No formal review schedule has been established. Instead, the Board will be constantly reviewing its regulations and proposing amendments as the need arises.

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REVIEW COMMISSION

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

By: _____
(Deputy Attorney General)

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:

**Pennsylvania Gaming
Control Board**

FISCAL NOTE NO. : 125-____71____

DATE OF ADOPTION: 1/11/2008

By: Mary DiGiorgio Colins
Mary DiGiorgio Colins, CHAIRMAN

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

BY: Frank Donaghue, Chief Counsel

1/11/2008
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.

**FINAL FORM RULEMAKING
COMMONWEALTH OF PENNSYLVANIA**

**58 PA. CODE, SUBPART A & E
CHAPTER 405a & 461a**

RULES AND REGULATIONS

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA.CODE CHAPTERS 405a AND 461a]

BUREAU OF INVESTIGATIONS AND ENFORCEMENT; AND SLOT MACHINE TESTING AND CONTROL

The Pennsylvania Gaming Control Board (Board), under its 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. §§ 1207, 1320 and 1517(a.2) (relating to regulatory authority of board; slot machine testing and certification standards; and investigations and enforcement), amends Chapter 405a (relating to Bureau of Investigations and Enforcement) and Chapter 461a (relating to slot machine testing and control) to read as set forth in Annex A.

Purpose of the Final-form Rulemaking

These amendments conform the language in the regulations to the language of the Pennsylvania Race Horse Development and Gaming Act (Act), make provisions consistent with changes in subsequently adopted chapters and remove obsolete provisions.

Explanation of the Amendments to Chapters 405a and 461a

In § 405a.3(b) (relating to Office of Enforcement Counsel) the Board deleted the phrase "and operational" so that this section mirrors the language in § 1517(a.2)(2) of the Act. The title "Director of the Office of Enforcement Counsel" has been changed to "Chief Enforcement Counsel" in this section and in § 405a.5 (relating to investigatory subpoena) to match the Board's current organizational structure.

In § 405a.6 (relating to enforcement action) the Board updated citations and extended the time to file a notice of defense and request a hearing in subsections (c) and (d) from 15 days to 20 days to match the time period in § 493a.2(e).

In § 405a.6(e) the Board changed the requirement concerning the mailing of final orders. Final orders will be sent by first class mail instead of certified mail. Because a respondent's address is determined at the beginning of the proceeding there is no need to use certified mail for the final order.

In §§ 461a.3 and 461a.4 (relating to testing and approval generally; and submission for testing and approval) the Board removed the references and provisions relating to abbreviated testing and approval of slot machines and associated equipment. Section 1320 of the Act allowed the Board to use certifications of equipment by other states or approved private testing laboratories until the Board established its testing facility. Now that the Gaming Laboratory is operational, the time period to use these alternate processes has expired.

In § 461a.7 (relating to slot machine minimum design standards) the Board deleted subsection (d) which contains the "payout requirement of 85% within 10 million plays" standard. Because the length of time that a slot machine is typically used today is shorter and because of the advent of server based games, this standard has become obsolete. The other requirements which reflect the statutory requirement of having a payout of at least 85% remain unchanged.

In § 461a.12 (relating to progressive slot machines) references to § 461a.7 have been updated to reflect the deletion of subsection (d) discussed above.

Comment and Response Summary

Notice of proposed rulemaking was published at 37 Pa.B. 5799 (October 27, 2007).

The Board received comments from International Gaming Technology during the public comment period in support of the proposed changes. By letter dated December 26, 2007, the Independent Regulatory Review Commission (IRRC) notified the Board that IRRC had no objections, comments or recommendations to offer on these amendments.

No changes have been made to the proposed regulation in this final-form regulation.

Affected Parties

Under this final-form rulemaking manufacturers submitting slot machines for testing and certification will be affected by no longer being able to request alternate certification of their slot machines and related equipment. There are 16 currently licensed manufacturers.

Respondents to complaints will also be affected. The Board projects that there may be approximately 2000 complaints filed over the next 12 months.

Fiscal Impact

Commonwealth

By mailing Board orders by first class mail instead of certified mail, the Board estimates this final-form rulemaking will save up to \$10,000 annually.

Political Subdivisions

This final-form rulemaking will have no fiscal impact on political subdivisions of the Commonwealth.

Private Sector

The Board anticipates that there will be no significant costs or savings to the regulated public as a result of these amendments.

General Public

This final-form rulemaking will have no fiscal impact on the general public.

Paperwork requirements

These amendments do not change or add new reporting, record keeping or paperwork requirements.

Effective Date

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

Contact Person

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on October 12, 2007, the Board submitted a copy of the proposed rulemaking, published at 37 Pa.B. 5799 (October 27, 2007), and a copy of the Regulatory Analysis Form to IRRC and the Chairpersons of the House Gaming Oversight Committee and the Senate Committee on Community, Economic and Recreational Development.

Under section 5(c) of the Regulatory Review Act (71 P.S. § 745.5(c)), 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 received from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on , 2008, the final-form rulemaking was deemed approved by the House Gaming Oversight Committee and the Senate Committee on Community, Economic and Recreational Development. Under section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)) IRRC met on , 2008 and approved the final-form rulemaking.

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) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

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

Order

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

(a) The regulations of the Board, 58 Pa. Code Part VII, are amended by amending the final regulation in § 405a.3, 405a.5, 405a.6, 461a.3, 461a.4, 461a.7 and 461a.12 to read as set forth in Annex A, with ellipses referring to existing text of the regulations.

(b) The Chairman of 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 take effect upon publication in the *Pennsylvania Bulletin*.

MARY DIGIACOMO COLLINS,
Chairman

Annex A

Title 58. RECREATION

PART VII. GAMING CONTROL BOARD

SUBPART A. GENERAL PROVISIONS

CHAPTER 405a. BUREAU OF INVESTIGATIONS AND ENFORCEMENT

* * * * *

§ 405a.3. Office of Enforcement Counsel.

* * * * *

(b) The [Director of the Office of] Chief Enforcement Counsel will report to the Executive Director of the Board on administrative [and operational] matters.

(c) The [Director of the Office of] Chief Enforcement Counsel may be removed by the Board only for good cause shown.

* * * * *

§ 405a.5. Investigatory subpoena.

(a) The [Director of the Office of] Chief Enforcement Counsel is authorized to require the attendance and testimony of witnesses and the production of books, accounts, papers, records, documents, files, computer files and photographs in original or electronic format necessary for all action within the authority of the Bureau under the act or this part.

(b) The [Director of the Office of] Chief Enforcement Counsel or his representative may issue subpoenas.

(c) In case of disobedience of any subpoena or the contumacy of any witness appearing before the [Director of the Office of] Chief Enforcement Counsel or a representative, the [Director of the Office of] Chief Enforcement Counsel or a representative may invoke the aid of Commonwealth Court or any court of record of this Commonwealth to require the person subpoenaed to obey the subpoena or to give evidence or to produce books, accounts, papers, records, documents, files, computer files and photographs in original or electronic format relative to the matter in question.

* * * * *

§ 405a.6. Enforcement action.

(a) Upon a determination by the Office of Enforcement Counsel that sufficient facts exist to support enforcement action against a person holding a license, permit, certification or registration issued by the Board, the Office of Enforcement Counsel will initiate a complaint in accordance with § 493a.2 (relating to complaints), including a proposed order for an enforcement action and serve the complaint in accordance with § [491.3] 491a.5 (relating to service by the Board).

* * * * *

(c) Within [15] 20 days from the date of service of complaint for an enforcement action, the person may file a notice of defense in accordance with § 493a.2(e) and serve a

copy of the request on the Office of Enforcement Counsel.
Failure to file a notice of defense for an enforcement action
complaint within [15] 20 days will be deemed:

* * * * *

(d) Upon the person's failure to request a hearing within
the prescribed [15] 20 days, the Office of Enforcement Counsel
will present the proposed enforcement order to the Board. The
Board may, by resolution, adopt the proposed enforcement order.

(e) The Clerk will send a copy of the Board's final order
to the person by [certified] first class mail.

* * * * *

SUBPART E. SLOT MACHINES AND ASSOCIATED EQUIPMENT

CHAPTER 461a. SLOT MACHINE TESTING AND CONTROL

* * * * *

§ 461a.3. Testing and approval generally.

(a) In accordance with section 1320 of the act (relating
to slot machine testing and certification standards), [the Board
will determine the manner and scope in which slot machines and
associated equipment are to be tested and approved prior to
operation and use in a licensed facility in this Commonwealth.

(b) Slot] slot machines and associated equipment operated
in this Commonwealth must be approved by the Board [.

(c) The Board has the authority to require one or more of
the following procedures:

(1) An abbreviated testing and approval process in accordance with § 461a.4(g) (relating to submission for testing and approval).

(2) Testing and approval] in accordance with § 461a.4[(i)] (g).

[(3) Utilize the services of a Board-approved private slot machine testing facility to conduct the testing until a slot machine testing facility is established by the Board.

(d)] (b) The general cost of establishment and operation of the Board's testing facility shall be paid by each manufacturer licensee on a quarterly basis based upon each manufacturer's proportion of the total number of products reviewed.

[(e)] (c) The Board will require payment of all costs for the testing and approval of slot machines and associated equipment submitted by manufacturers or installed at a licensed facility based on the actual direct costs incurred by the Board.

[(f)] (d) The Board will require a manufacturer licensee seeking approval of a slot machine or associated equipment to pay all costs of transportation, inspection and testing.

§ 461a.4. Submission for testing and approval.

* * * * *

(g) [Notwithstanding the terms of subsection (d), the Board may utilize an abbreviated testing and approval process in

accordance with section 1320 of the act (relating to slot machine testing and certification standards).

(h) When an applicant for, or holder of, a manufacturer license seeks to utilize, during the applicable period, the abbreviated testing and approval process for a slot machine prototype, associated equipment prototype or any modification thereto, it shall submit to the Slot Lab the following:

(1) A prototype of the equipment, device or software accompanied by a written request for abbreviated testing and approval which identifies the jurisdiction within the United States upon which the applicant for, or holder of, a manufacturer license proposes the Board rely (''named jurisdiction''). The manufacturer shall transport the equipment device or software at its own expense and deliver it to the offices of the Slot Lab.

(2) A certification executed by the chief engineer of the applicant for, or holder of, a manufacturer license or the engineer in charge of the division of the manufacturer responsible for producing the equipment, device or software submitted (''professional'') asserting that:

(i) The specific prototype or modification is identical in all mechanical, electrical, electronic and other respects to one which has been tested and approved by the

testing facility operated by the named jurisdiction or a private testing facility on behalf of the named jurisdiction.

(ii) The manufacturer is licensed and in good standing in the named jurisdiction and that the subject product has all regulatory approvals prerequisite to sale or distribution in the named jurisdiction.

(iii) In the professional's opinion, the testing standards of the named jurisdiction are comprehensive and thorough and provide similar adequate safeguards as those required by this subpart.

(iv) In the professional's opinion, the equipment, device or software complies with the act, this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website including requirements related to the central control computer.

(3) An executed copy of a current product submission checklist, and any product specific supplemental submission checklists applicable to the submitted equipment, device or software unless a substantially similar checklist was filed with the named jurisdiction and is included in the submission package required by paragraph (4).

(4) Copies of the submission package, and amendments thereto, filed with the named jurisdiction, copies of any

correspondence, review letters or approvals issued by the testing facility operated by the named jurisdiction or a private testing facility on behalf of the named jurisdiction and, as applicable, a copy of the final regulatory approval issued by the named jurisdiction.

(5) A disclosure that lists any conditions or limitations placed by the named jurisdiction on the operation or placement of the equipment, device or software at the time of approval or subsequently thereafter.

(6) A complete, comprehensive and technically accurate description of the manner in which the slot machine was tested for compatibility and compliance with the central control computer and protocol specifications approved by the Department including the ability to communicate with the central control computer for the purpose of transmitting auditing program information, real time information retrieval and activation and disabling of slot machines.

(7) Any hardware, software and other equipment, inclusive of technical support and maintenance applicable thereto, required by the Slot Lab to conduct the abbreviated testing and approval process contemplated by the act, this subpart and technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's

website. The testing equipment and services required by this paragraph shall be provided at no cost to the Board.

(8) Additional documentation requested by the Board which is necessary to evaluate the slot machine, associated equipment or modification thereto.

(i)] When an applicant for, or holder of, a manufacturer license seeks Board approval of a slot machine prototype, associated equipment prototype, or any modification thereto [for which the abbreviated testing process in subsection (g) is not applicable], it shall submit to the Slot Lab the following:

* * * * *

[(j)] (h) At the conclusion of testing of a prototype or modification by the Slot Lab, but prior to a decision to approve a prototype or modification, the Board may require a trial period of scope and duration as it deems appropriate to assess the operation of the prototype or modification in a live gaming environment. The conduct of the trial period shall be subject to compliance by the licensed manufacturer, licensed manufacturer designee, applicable licensed suppliers, and the slot machine licensee with specific terms and conditions as may be required by the Board, which may include development and implementation of product specific accounting and internal controls, periodic data reporting to the Board and compliance with technical standards on trial periods or the prototype or modification

adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website. The Board may authorize the receipt of compensation by a licensed manufacturer, licensed manufacturer designee or licensed supplier during the trial period. The Board may order termination of the trial period if it determines that the licensed manufacturer, licensed manufacturer designee, applicable licensed suppliers or the slot machine licensee conducting the trial period has not complied with the terms and conditions required by the Board or that the product is not performing as expected.

[(k)] (i) At the conclusion of testing of a prototype or modification, the Slot Lab will report to the Board the results of its testing. Upon receipt of the Slot Lab's report, the Board will:

* * * * *

(2) Require additional testing or a trial period under subsection [(j)] (h).

[(l)] (j) Board approval of a prototype or modification does not constitute a guarantee of the [prototype] prototype's or modification's safety.

[(m)] (k) A slot machine licensee is prohibited from installing in its licensed facility a slot machine or associated equipment, or modification thereto, required to be tested [and approved under subsection (c)] unless the equipment, device or

software has been approved by the Board. A slot machine licensee may not modify, alter or tamper with an approved slot machine or associated equipment. A slot machine or associated equipment installed in a licensed facility in contravention of this requirement will be subject to seizure by the Board.

[(n)] (1) Notwithstanding subsection [(m)] (k), the Board may authorize installation of a modification to a slot machine prototype or associated equipment prototype on an emergency basis to prevent cheating or malfunction, upon the written request of a licensed manufacturer. The request must expressly detail the name and employer of any persons to be involved in the installation of the modification and the manner in which it is to be effected. Within 15 days of receipt of any authorization to install an emergency modification, the manufacturer shall submit the modification for full testing and approval in accordance with this subpart.

[(o)] (m) A slot machine licensee shall immediately notify the Board of any known or suspected defect or malfunction in any slot machine or associated equipment installed in its licensed facility. The slot machine licensee shall comply with instructions issued by the Board with regard to the continued operation of the slot machine or associated equipment.

[(p)] (n) Concurrent with the initial receipt of slot machines, an applicant for, or holder of, a slot machine license

shall file a slot machine master list as required by § 463a.5 (relating to slot machine master list).

[(q)] (o) The testing of equipment, devices or software under this subpart may require the dismantling of the product and testing that may result in damage to, or destruction of, one or more systems or components. Once submitted for testing, equipment, devices or software will not be returned to the manufacturer.

* * * * *

§ 461a.7. Slot machine minimum design standards.

* * * * *

(d) [In addition to the requirements of subsections (a), (b) and (c), the volatility of a slot machine must verify that the theoretical payout percentage equals or exceeds the minimum payout requirement of 85% within 10 million plays. The criteria used to calculate the volatility must be in accordance with technical standards applicable to volatility under § 461b.1 (relating to slot machine minimum design standards).

(e)] The selection from the set of all possible combinations of symbols shall be made applying a pseudo random number generator. At a minimum, a pseudo random number generator must adhere to the following criteria:

* * * * *

[(f)] (e) A slot machine is prohibited from automatically altering any function of the slot machine based on internal computation of the hold percentage.

[(g)] (f) The available winning combinations and applicable rules of play for a slot machine shall be available at all times the slot machine is idle to the patron playing the slot machine. The award schedule of available winning combinations may not include possible aggregate awards achievable from free plays. A slot machine that includes a strategy choice must provide mathematically sufficient information for a patron to use optimal skill. Information regarding a strategy choice need not be made available for any strategy decisions whenever the patron is not required, in addition to the initial wager, to make an additional wager and, where as a result of playing a strategy choice, the patron can not lose any credits earned thus far during that game play.

[(h)] (g) Slot machines approved for use in a licensed facility must be equipped with the following meters that comply with the technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website:

* * * * *

[(i)] (h) A slot machine that does not meter one or more of the events required to be metered under subsection [(h)] (g) may be approved where a slot machine licensee's system of internal

controls establishes that the meter is not required to capture all critical transactions occurring on the slot machine.

[(j)] (i) The meters required under subsection [(h)] (g) must continuously and automatically increment in units equal to the denomination of the slot machine or, in the case of a slot machine configured for multi-denomination play, must display the required information in dollars and cents.

[(k)] (j) A slot machine approved for use in a licensed facility must be equipped with the following noncumulative meters:

* * * * *

[(l)] (k) A slot machine must have a meter which stores the number of games played, in the manner and for a duration specified in this subpart or in technical standards adopted by the Board and published in the *Pennsylvania Bulletin* and posted on the Board's website, since the following events:

* * * * *

[(m)] (l) A slot machine must be equipped with a device, mechanism or method for retaining the total value of all meters required under subsection [(h)] (g) for a period of 72 hours subsequent to a power loss.

[(n)] (m) The required meters on a slot machine must be accessible and legible without access to the interior of the slot machine.

[(o)] (n) A slot machine must be equipped with a tower light capable of effectively communicating the status of the slot machine in accordance with technical standards on tower lights and error conditions under § 461b.2 (relating to slot machine tower lights and error conditions).

[(p)] (o) A slot machine must be equipped with a device, mechanism or method for detecting, displaying and communicating to a slot monitoring system error conditions. The error conditions detected, displayed and communicated by a slot machine, and the method to be utilized to clear the message with regard to the error condition, must be in accordance with technical standards on tower lights and error conditions under § 461b.2.

[(q)] (p) A slot machine must, in accordance with section 1324 of the act (relating to protocol information), comply with the comprehensive protocol specifications necessary to enable the slot machine to communicate with the Department's central control computer as that protocol is amended or supplemented, for the purpose of transmitting auditing program information, real time information retrieval and slot machine activation and disabling.

[(r)] (q) A slot machine must lock up and preclude further play whenever a jackpot occurs that is not able to be paid completely by the slot machine and requires a hand pay. When the

jackpot occurs, the slot machine can offer a predetermined number of double-up wagers before the slot machine locks up.

[(s)] (r) Printers incorporated into a slot machine must be:

* * * * *

[(t)] (s) Seating made available by a slot machine licensee for use during slot play must be fixed and stationary in nature. Slot seating must be installed in a manner that effectively precludes its ready removal by a patron but permits controlled removal, for example for American With Disabilities Act of 1990 (ADA) (42 U.S.C.A. §§ 12101 - 12213) purposes, by slot operations department personnel.

[(u)] (t) Unless a slot machine licensee's slot monitoring system is configured to automatically record all of the information required by this subsection, the slot machine licensee shall be required to physically house in each slot machine the following entry authorization logs:

* * * * *

[(v)] (u) A slot machine must be equipped with a lock controlling access to the card cage door securing the microprocessor, the key to which must be different from any other key securing access to the slot machine's components including its belly door or main door, bill validator or slot cash storage box. Access to the key securing the microprocessor

shall be limited to a supervisor in the slot operations department, which department shall establish a sign out and sign in procedure with regard to this key.

[(w)] (v) A slot machine must be equipped with a mechanism for detecting and communicating to a slot monitoring system any activity with regard to access to the card cage door securing its microprocessor.

* * * * *

§ 461a.12. Progressive slot machines.

* * * * *

(b) A slot machine that offers a progressive jackpot which may increase in value based upon wager and is adjusted and displayed by a device other than the approved program that controls the operation of the slot machine, referred to herein as a progressive controller, must have the following features:

* * * * *

(2) A slot machine paid progressive payout meter in accordance with § 461a.7[(h)] (g) (relating to slot machine minimum design standards).

(3) A slot attendant paid progressive payout meter in accordance with § [461a.7[(h)] (g)].

**COMMENTATORS WHO REQUESTED NOTICE
OF THE FINAL-FORM REGULATION**

FISCAL NOTE: 125-71

International Game Technology (“IGT”)

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 125-71

DATE: 1/11/2008

SUBJECT: Subpart A & E, Chapters 405a & 461a

AGENCY: Pennsylvania Gaming Control Board

TYPE OF REGULATION

- ☐ Proposed Regulation
- ☒ Final-Form 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

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
1. <u>1/11/08</u>	<u>[Signature]</u>	House Gaming Oversight Committee
2. <u>1/11/08</u>	<u>[Signature]</u>	
3. <u>1-11-08</u>	<u>[Signature]</u>	Senate Community, Economic & Recreational Committee
4. <u>1-11-08</u>	<u>[Signature]</u>	
5. <u>1/11/08</u>	<u>[Signature]</u>	Independent Regulatory Review Commission
6. _____	_____	Legislative Reference Bureau

INDEPENDENT REGULATORY
REVIEW COMMISSION

2008 JAN 11 PM 2:15

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