

Regulatory Analysis Form

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INDEPENDENT REGULATORY
REVIEW COMMISSION

IRRC Number:

2733

(1) Agency

Pennsylvania Gaming Control Board

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

125 - 95

(3) Short Title

Suppliers' Principal Place of Business; Temporary Credentials; and Recordkeeping

(4) PA Code Cite

58 Pa. Code §§ 431a.4, 435a.8, 437a.8
and 451a.1

(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.

This proposal sets forth requirements for suppliers' principal place of business; extends, from 120 days to 180 days, the time period for which a temporary credential issued to an applicant for a principal or key employee license is valid; corrects wording in § 437a.8 and adds a process for approving an alternate location for the storage of records.

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

§ 1202(b)(30) of the Pennsylvania Race Horse Development and Gaming Act (4 Pa.C.S. § 1202(b)(30)) provides the Board with the authority to adopt regulations necessary for the administration of the Act.

§§ 1311, 1311.1, 1311.2, 1317 and 1322 (4 Pa.C.S. §§ 1311, 1311.1, 1311.2, 1317 and 1322) provide additional authority for this rulemaking.

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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?

There has been some confusion amongst suppliers over what constitutes a principal place of business. This proposal will be them clear direction as to what is required.

Currently, applicants for a principal or key employee license, whose presence is necessary at a licensed facility, may be issued a temporary credential. These temporary credentials are valid for 120 days and may be extended if the Board determines that additional time is needed to complete the investigation of the applicant. While many investigations are completed in 120 days, a significant number are not. This has resulted in the Board having to issue a large number of extensions, which requires the issuance of a new temporary credential.

To reduce the need to issue a large number of new temporary credentials, the Board is extending the time period for which a temporary credential for an applicant for a principal or key employee license will be valid from 120 days to 180 days.

Finally, entities licensed, certified or registered with the Board that do not have a place to store records in this Commonwealth (such as some manufacturers or vendors) will be able to request approval of an alternate record storage location.

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

There are no public health, safety, environmental or general welfare risks associated with this regulation.

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

Applicants for a principal or key employee license will be less likely to need to be issued a second temporary credential. This will reduce the administrative burden on the Board and for affected applicants. The Board issued approximately 300 temporary credentials to applicants for principal or key employee licenses last fiscal year.

Some manufacturers and vendors who don't have an office in Pennsylvania may benefit from not having to store their records in this Commonwealth. The number will be a function of the number of requests that are made.

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 one will be adversely affected by this 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.)

There are 4 suppliers who will have to make sure their place of business in Pennsylvania meets the minimum requirements.

This regulation extends the time period that temporary credentials for applicants for principal or key employee licenses will be valid.

The Board issued approximately 300 temporary credentials to applicants for principal or key employee licenses last fiscal year.

(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 this rulemaking.

(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.

There may be some minor cost to suppliers if their place of business does not meet the minimum requirements.

There will be no costs or savings to applicants for principal or key employee licenses as a result of this rulemaking.

There may be a slight savings to entities that receive approval to keep their records somewhere outside of this Commonwealth.

None of these costs or savings are expected to be significant

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 costs or savings to local governments as a result of this rulemaking.

(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.

Under this rulemaking the Board will have to issue fewer temporary credentials. While this will result in some reduction of costs for the Board, the amount is not anticipated to be significant.

Review of requests to store records outside of Pennsylvania will be handled by existing staff, so no significant cost increases are anticipated

Regulatory Analysis Form

(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	N/A	N/A	N/A	N/A	N/A	N/A
Total Savings	N/A	N/A	N/A	N/A	N/A	N/A
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.

As discussed in the responses to Questions #17 and #19, the Board does not project that there will be any significant costs or savings associated with the changes proposed in this rulemaking.

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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	\$13,200,000	\$26,400,000	\$29,984,000	\$33,300,000

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

Suppliers will benefit by having clear standards they must meet relating to their principal place of business in Pennsylvania.

Under this rulemaking the Board will have to issue fewer temporary credentials. This will benefit both the Board and affected applicants through a slight reduction in administrative burdens.

Some entities regulated by the Board will benefit from not having to maintain required records in Pennsylvania.

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

No nonregulatory alternatives were considered because the only way to change the time period for which temporary credentials for applicants for principal or key employee licenses are valid and the recordkeeping requirements was to amend the existing regulations.

Establishing minimum standards for suppliers' principal place of business by regulation was necessary to provide enforceable minimum standards.

(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 this amendment 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.

This regulation will amend §§ 431a.4, 435a.8, 437a.8 and 451a.1 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.

This rulemaking will not affect any reporting or recordkeeping requirements. It may simplify record retention and storage for some entities.

(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.

There are none.

(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 second quarter of 2009.

(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.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE
BUREAU**

(Pursuant to Commonwealth Documents Law)

2733

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REVIEW COMMISSION

DO NOT WRITE IN THIS SPACE

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

By: *Angela M. Elliott*
(Deputy Attorney General)
NOV 13 2008

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-

95

DATE OF ADOPTION:

9-30-08

BY:

Mary DiGiorgio
Mary DiGiorgio Collins, CHAIRMAN

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

BY: *R. Douglas Sherman*
R. Douglas Sherman, Acting Chief Counsel
9-30-08

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.

**PROPOSED RULEMAKING
COMMONWEALTH OF PENNSYLVANIA**

**58 PA. CODE, SUBPARTS A, B, D
§§ 431a.4, 435a.8, 437a.8 and 451a.1**

PROPOSED RULEMAKING

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA.CODE CHAPTER 431a, 435a, 437a and 451a]

SUPPLIERS' PRINCIPAL PLACE OF BUSINESS; TEMPORARY CREDENTIALS AND RECORDKEEPING

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 specific authority contained in 4 Pa.C.S. §§ 1311, 13.11.1, 1311.2, 1317 and 1322 (relating to additional slot machine license requirements; licensing of principals; licensing of key employees; supplier licenses; and slot machine accounting controls and audits) proposes to amend Chapters 431a, 435a, 437a and 451a (relating to supplier licenses; employees; vendor certification and registration; and recordkeeping requirements) to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

This proposed rulemaking sets forth requirements for suppliers' principal place of business; extends, from 120 days to 180 days, the time period for which a temporary credential issued to an applicant for a principal or key employee license is valid; corrects wording in § 437a.8 (relating to approved vendors list; prohibited vendors) and adds a process for approving an alternate location for the storage of records.

Explanation of Amendments to Chapters 431a, 435a, 437a and 451a

Section 1317(b)(1.2) requires each supplier to establish and maintain a principal place of business in this Commonwealth. There has been some confusion on the part of suppliers as to what constitutes a principal place of business. To eliminate that confusion, the Board is amending § 431a.4 (relating to responsibilities of a supplier) to establish minimum requirements that must be met by a supplier when it establishes its principal place of business in this Commonwealth.

Currently, under § 435a.8 (relating to temporary credentials for principals and key employees), applicants for a principal or key employee license whose presence is necessary at a licensed facility may be issued a temporary credential. These temporary credentials are valid for 120 days and may be extended if the Board determines that additional time is needed to

complete the investigation of the applicant. While many investigations are completed in 120 days, a significant number are not. This has resulted in the Board having to issue a large number of extensions, which requires the issuance of a new temporary credential.

To reduce the need to issue a large number of new temporary credentials, the Board is amending § 435a.8 to extend the time period for which a temporary credential for an applicant for a principal or key employee license will be valid from 120 days to 180 days.

In § 437a.8(b) the Board is replacing the word "vendor" with "vendors" to make the usage consistent with the rest of this section.

In § 451a.1 (relating to recordkeeping generally) a new subsection (c) is being added which will allow entities required to maintain records in this Commonwealth to seek approval of an alternate storage location from the Bureau of Licensing. While most entities regulated by the Board have a place of business in Pennsylvania, some manufacturers and vendors do not. This will give those entities an opportunity to request approval to store their records outside of this Commonwealth.

Affected Parties

This proposed rulemaking will affect suppliers, applicants for a principal or key employee license, all regulated entities required to keep records and the Board.

Fiscal Impact

Commonwealth

Under this proposed rulemaking the Board will have to issue fewer temporary credentials. While this will result in some reduction of costs for the Board, the amount is not anticipated to be significant. The Board issued approximately 300 temporary credentials to principal and key employee applicants last fiscal year. The Board also expects to receive a few requests to approval alternate record retention locations. These will be processed by existing staff and are not expected to have a significant cost impact on the Board.

Political Subdivisions

This proposed rulemaking will have no direct fiscal impact on political subdivisions of this Commonwealth.

Private Sector

Suppliers will have to meet the proposed minimum standards for their principal place of business in this Commonwealth. Since these requirements are minimal, the Board does not anticipate that they will impose any new significant costs on the 4 currently licensed suppliers. A few entities may experience some savings from the approval of an alternate location to store their records.

General Public

This proposed rulemaking will have no fiscal impact on the general public.

Paperwork requirements

As stated above, the Board will be less likely to need to issue a second temporary credential.

Effective Date

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

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking, within 30 days after the date of publication in the *Pennsylvania Bulletin* to Richard Sandusky, Director of Regulatory Review, Pennsylvania Gaming Control Board, P.O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-95.

Contact Person

The contact person for questions about this proposed rulemaking is Richard Sandusky, Director of Regulatory Review, at (717) 214-8111.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on November 14, 2008, the Board submitted a copy of

this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Gaming Oversight Committee and the Senate Community, Economic and Recreational Development Committee. A copy of this material is available to the public upon request and is available on the Board's website (www.pgcb.state.pa.us).

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

MARY DIGIACOMO COLINS,
Chairman

Annex A

Title 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart B. LICENSING, PERMITTING, CERTIFICATION AND REGISTRATION

CHAPTER 431a. SUPPLIER LICENSES

* * * * *

§ 431a.4. Responsibilities of a supplier.

(a) Within 1 year of the Board's issuance of a supplier license, the supplier shall establish and maintain a principal place of business in this Commonwealth. The principal place of business must be:

(1) Owned or leased by the supplier. If leased, the term of the lease must be at least as long as the term of the supplier's license.

(2) Where the supplier maintains all agreements, contracts and records, or copies thereof, pertaining to the supplier's business conducted in Pennsylvania.

(3) Large enough to accommodate all of the materials required under paragraph (2), the employees assigned to this office and the equipment required to carry out the employees' assigned duties.

(4) Equipped with a telephone.

(5) Staffed by at least one person during normal business hours.

(6) Open for inspection by Board personnel during normal business hours.

* * * * *

CHAPTER 435a. EMPLOYEES

* * * * *

§ 435a.8. Temporary credentials for principals and key employees.

* * * * *

(b) A temporary credential issued under this section is void [120] 180 days after the date of its issuance.

* * * * *

CHAPTER 437a. VENDOR CERTIFICATION AND REGISTRATION

* * * * *

§ 437a.8. Approved vendors list; prohibited vendors.

* * * * *

(b) A slot machine licensee or applicant may not enter into an agreement or continue to do business with a vendor on the prohibited [vendor] vendors list.

* * * * *

CHAPTER 451a. RECORDKEEPING REQUIREMENTS

§ 451a.1. Recordkeeping generally.

(a) All manufacturer, supplier, junket enterprise, management company and slot machine licensees and all registered and certified vendors shall maintain adequate records of

business operations which shall be made available to the Board upon request. [These records shall be kept onsite in this Commonwealth in a place secure from theft, loss or destruction or at another secure location approved by the Board.] These records include:

* * * * *

(c) The records required to be maintained under subsection (a) shall be kept onsite in this Commonwealth in a place secure from theft, loss or destruction or at another secure location approved by the Bureau of Licensing. A request to store records at another secure location outside of this Commonwealth may be submitted in writing to the Bureau of Licensing and include:

(1) The reason for the request.

(2) A description and the address of the proposed alternate location.

(d) Approval by the Bureau of Licensing of a request to store records at a location outside the Commonwealth does not relieve the licensee of its duty to make the records available to the Board upon request.

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

I.D. NUMBER: 125-95

DATE: 11-14-08

SUBJECT: Subparts A, B & D – Sections 431a.4, 435a.8, 437a.8 and 451a.1

AGENCY: Pennsylvania Gaming Control Board

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REVIEW COMMISSION

TYPE OF REGULATION

X

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>11/14/2008</u>	<u>[Signature]</u> (Rep. James)	House Gaming Oversight Committee
2. <u>11/14/08</u>	<u>[Signature]</u> (Rep. Clymer)	
3. <u>11/14/08</u>	<u>[Signature]</u> (Senator LaValle)	Senate Community, Economic & Recreational Committee
4. <u>11/14/08</u>	<u>[Signature]</u> (Senator Earll)	
5. <u>11/14/08</u>	<u>[Signature]</u>	Independent Regulatory Review Commission
6. <u>11-14-08</u>	<u>[Signature]</u>	Legislative Reference Bureau