

# Regulatory Analysis Form

(Completed by Promulgating Agency)



## **SECTION I: PROFILE**

(1) Agency:

Pennsylvania Gaming Control Board

(2) Agency Number:

Identification Number: 125-145

IRRC Number:

(3) Short Title:

Accounting and internal controls; Commencement of slot and table game operations

(4) PA Code Cite:

58 Pa.Code §§ 401a., 461a., 465a., 467a., 521 and 525

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact:

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Secondary Contact:

N/A

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

N/A

(All Comments will appear on IRRC'S website)

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(7) Type of Rulemaking (check applicable box):

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation
- Emergency Certification Regulation;
  - Certification by the Governor
  - Certification by the Attorney General

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

With this rulemaking, the Board is proposing to replace: the temporary regulation in section 521.3 (relating to table game surveillance requirements) by amending the existing permanent regulation in Chapter 465a. (relating to accounting and internal controls); the temporary regulation in section 521.11 (relating to table game floor plan changes) by amending the permanent regulation in Chapter 467a. (relating to commencement of slot and table game operations); and Chapter 525 (relating to table game internal controls) by amending Chapter 465a. of the permanent regulations.

This rulemaking will amend the internal control provisions and the provisions on the commencement of gaming operations so that the current requirements for slot operations will also be applicable to table game operations. This rulemaking will also provide some clarity, will delete some filings and update the regulations to reflect the Board's experience to date.

(9) Include a schedule for review of the regulation including:

- |   |                                    |
|---|------------------------------------|
| A. The date by which the agency must receive public comments:                               | <u>30 days after publication</u>   |
| B. The date or dates on which public meetings or hearings will be held:                     | <u>N/A</u>                         |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>3<sup>rd</sup> Quarter 2011</u> |
| D. The expected effective date of the final-form regulation:                                | <u>Upon publication</u>            |
| E. The date by which compliance with the final-form regulation will be required:            | <u>90 days after publication</u>   |
| F. The date by which required permits, licenses or other approvals must be obtained:        | <u>N/A</u>                         |

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

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

### **SECTION II: STATEMENT OF NEED**

(11) State the statutory authority for the regulation. Include specific statutory citation.

Section 1202(b)(30) (relating to general and specific powers) and specific authority contained in 4 Pa.C.S. §§ 1207, 1322, 13A02(1)-(6), 13A25(relating to regulatory authority of the board; slot machine accounting controls and audits; regulatory authority; and table game accounting controls and audit protocols).

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

There are no other applicable federal or state statutes, regulations or court decisions that mandate adoption of these changes contained in this rulemaking.

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Pursuant to the Act, the Board was tasked with promulgating regulations: establishing standards and procedures for table games and table game devices; establishing standards for the daily counting and recording of cash and cash equivalents received in the conduct of gaming; establishing minimum standards relating to the acceptance of tips; and requiring each licensee to provide detailed site plans, internal control systems and audit protocols for slot and table game operations.

With this rulemaking, certificate holders will have a clear understanding of the surveillance, staffing, count process and internal control requirements applicable to the operations within the licensed facility. These regulations are necessary to protect the integrity of gaming, the gaming public and to ensure the accurate collection and recording of revenue and taxes for the Commonwealth. Adequate surveillance coverage and staffing levels, for instance, are necessary to detect and deter cheating and theft, to reconstruct patron play in the event of a dispute or irregularity as well as for the protection of assets during the drop and count process.

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(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

There are no studies or research upon which this rulemaking is based.

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

The Board does not anticipate that anyone will be adversely affected by this regulation.

(16) 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.

Slot machine licensees that elected to become certificate holders will be required to submit updated internal controls to reflect the amendments made in this rulemaking. Additionally, slot machine licensees that have not yet been issued a license as well as future successful applicants will be required to comply with the provisions contained in this rulemaking.

## SECTION III: COST AND IMPACT ANALYSIS

(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. Explain how the dollar estimates were derived.

The surveillance requirements contained in § 465a.9 will not impose any additional costs on the current certificate holders since the surveillance systems have already been updated prior to the commencement of table game operations. The operators did experience significant costs for: the installation of new cameras and other surveillance equipment; the reconfiguration of the gaming floor and positioning and repositioning of new and existing cameras; and the addition of new employees for their surveillance departments. The Board projected the costs related to surveillance requirements to be between \$150,000 to \$300,000 depending on the type of equipment purchased, the size of the gaming floor and the types of table games installed.

This rulemaking will combine into one chapter, two separate internal controls sections on slot operations and table game operations. Before authorized to commence table game operations, the certificate holder was required to expand and revise the scope of its internal controls. The revised costs were estimated at

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between \$20,000 and \$50,000 depending on the scope of the revisions and if the revisions were prepared internally. Although operators will again have to submit updated internal controls, those internal controls combine the separate sections that, for the most part, should already be written. These estimates are based on the costs associated with internal controls that were submitted when the licensees commenced slot operations.

Certificate holders were also required to hire and train additional staff to operate table games. To satisfy the minimum staffing requirements contained in the temporary rulemaking, operators collectively hired 12 key employees, 967 managers and supervisors, 3,264 dealers and 221 security guards for a total of 4,452 gaming employees. The cost for a gaming employee application is \$350 while the cost for key employee licenses is \$2,500. Although turnover in staff is expected, the Board does not have an estimate regarding the number of additional gaming and key employees an operator will be required to hire in the future to comply with the minimum staffing requirements contained within this rulemaking.

There will be some minor cost savings associated with floor plans and annual audits. Operators will no longer be required to submit large scale gaming floor plans with every petition to modify their gaming floor but may instead submit an electronic version. Additionally, operators will no longer be required to submit several reports with their audited financial statements.

(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. Explain how the dollar estimates were derived.

It is not anticipated that this regulation will require expenditures or provide savings to local governments; however, local governments will receive a local share assessment of the operator's revenue.

(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. Explain how the dollar estimates were derived.

It is not anticipated that this regulation will require expenditures or provide savings to state government; however, with the passage of table games, state government will receive 14% of a certificate holder's gross table game revenue for two years following the commencement of table game operations. After the first two years, the state will receive 12% of gross table game revenue.

(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

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for the current year and five subsequent years.

|                             | Current FY<br>Year | FY +1<br>Year | FY +2<br>Year | FY +3<br>Year | FY +4<br>Year | FY +5<br>Year |
|-----------------------------|--------------------|---------------|---------------|---------------|---------------|---------------|
| <b>SAVINGS:</b>             | \$                 | \$            | \$            | \$            | \$            | \$            |
| <b>Regulated Community</b>  | N/A                | N/A           | N/A           | N/A           | N/A           | N/A           |
| <b>Local Government</b>     | N/A                | N/A           | N/A           | N/A           | N/A           | N/A           |
| <b>State Government</b>     | N/A                | N/A           | N/A           | N/A           | N/A           | N/A           |
| <b>Total Savings</b>        | N/A                | N/A           | N/A           | N/A           | N/A           | N/A           |
| <b>COSTS:</b>               |                    |               |               |               |               |               |
| <b>Regulated Community</b>  | \$3,988,200*       | N/A           | N/A           | N/A           | N/A           | N/A           |
| <b>Local Government</b>     | N/A                | N/A           | N/A           | N/A           | N/A           | N/A           |
| <b>State Government</b>     | N/A                | N/A           | N/A           | N/A           | N/A           | N/A           |
| <b>Total Costs</b>          | \$3,988,200        |               |               |               |               |               |
| <b>REVENUE LOSSES:</b>      |                    |               |               |               |               |               |
| <b>Regulated Community</b>  | N/A                | N/A           | N/A           | N/A           | N/A           | N/A           |
| <b>Local Government</b>     | N/A                | N/A           | N/A           | N/A           | N/A           | N/A           |
| <b>State Government</b>     | N/A                | N/A           | N/A           | N/A           | N/A           | N/A           |
| <b>Total Revenue Losses</b> | N/A                | N/A           | N/A           | N/A           | N/A           | N/A           |

\*The surveillance equipment was purchased and installed, the internal controls were updated and staff was hired and trained in conformity with the temporary regulations that were promulgated during the 2009-2010 fiscal year.

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

| Program                     | FY -3        | FY -2        | FY -1   | Current FY                                      |
|-----------------------------|--------------|--------------|---|---|
| PGCB Overall Budget         | \$29,984,000 | \$33,310,000 | \$33,744,500<br>(inclusive of the amount below) | \$35,800,000<br>(inclusive of the amount below) |
| PGCB Budget for Table Games |              |              | \$1,100,000                                     | \$2,700,000                                     |
|                             |              |              |   |   |

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

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The internal control requirements within these chapters are necessary for the protection of the gaming public, the accurate recording of revenues and taxes and the integrity of gaming in the Commonwealth. Surveillance coverage is necessary to detect and record cheating and theft, to reconstruct patron play in the event of a dispute or irregularity as well as for the protection of assets during the drop and count process. While surveillance is recording activity on the gaming floor, adequate supervisory staff can detect and deter cheating and theft on the gaming floor and can alert surveillance to direct camera coverage onto certain tables or individuals. On-the-floor staffing protects patrons and the integrity of gaming and the revenues generated from gaming. Although minimum staffing levels are specified, the regulation does allow certificate holders additional operating flexibility by allowing operators, with Board approval, to use a staffing plan that differs from what is specified in the regulation.

Adequate count room procedures are necessary for the safeguarding of assets and to deter or minimize employee theft from the count room. Additionally, standardized count room procedures ensures the consistent and accurate accounting of assets and revenue and makes it easier for the facility's surveillance department and the casino compliance representatives to detect and track irregularities in the count process.

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

When the temporary regulations were promulgated, the Board provided for a 30 day public comment period whereby the industry was invited to provide suggestions for revision to the temporary regulations. Several of the suggestions received were incorporated into subsequent revisions to the temporary regulations while others were incorporated into this proposed rulemaking.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

No other regulatory schemes were considered.

(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 regulations.

There are no corresponding federal requirements.

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

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The regulations are consistent with the surveillance, staffing and internal control provisions in other gaming jurisdictions as well as the objectives and requirements of the Gaming Act. Therefore, these regulations should not affect Pennsylvania's ability to compete with other states.

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

With this rulemaking, the Board is proposing to replace: the temporary regulation in section 521.3 (relating to table game surveillance requirements) by amending the existing permanent regulation in Chapter 465a. (relating to accounting and internal controls); the temporary regulation in section 521.11 (relating to table game floor plan changes) by amending the permanent regulation in Chapter 467a. (relating to commencement of slot and table game operations); and Chapter 525 (relating to table game internal controls) by amending Chapter 465a. of the permanent regulations.

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

Regarding the amendments to Chapter 465a., within 90 days after publication as a final-form rulemaking operators will be required to update their internal controls. There is not a standardized format since internal controls vary by facility.

All applications for employees of the licensed facility are available on the PGCB website:  
<http://www.pgcb.state.pa.us/?p=77>

(28) 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.