

Regulatory Analysis Form

(Completed by Promulgating Agency)

**INDEPENDENT REGULATORY
REVIEW COMMISSION**

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency

Pennsylvania Gaming Control Board

(2) Agency and Identification Number:

125-175

IRRC Number:

(3) PA Code Cite:

58 PA.CODE CHS. 421a, 423a, 425a, 427a, 429a, 431a, 433a, 435a, 437a, 440a, 441a, 461a, 465a, 609a, 623a, 633a, 643a and 645a.

(4) Short Title:

Subpart B – Licensing; slot software; count room characteristics; credit; table game rules

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

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(6) 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

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

This rulemaking is a comprehensive amendment package addressing thirteen chapters in Subpart B (relating to licensing). This rulemaking should provide clarity, delete redundant provisions, decrease the number of copies of applications required, allow for an increase in ownership of licenses by institutional investors and ensure that a background investigation is completed on nongaming employees every four years.

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

The general authority for this regulation is in 4 Pa.C.S. § 1202(b)(9) – (23)(relating to general and specific powers) and the specific authority in 4 Pa.C.S. §§ 1205, 1206(f) and (g), 1207(1) and (2), 1208(1)(iii), 1209(b), 1212, 1213, Chapter 13 (relating to licensees), §§ 13A11, 13A12, 13A13, 13A14, 13A15 and 1802.

(9) 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.

(10) 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.

This rulemaking is needed to: reflect agency practice; clarify existing regulations; allow institutional investors to obtain a greater ownership interest in licensees without requiring a waiver from the Board; ensure that nongaming employees remain suitable to hold a registration; and that publicly traded gaming service providers remain eligible for the exemption from the gaming service provider certification and registration requirements.

Most of the revisions contained in this rulemaking were made for clarity or to reflect agency practice which should benefit all individuals and entities that are under the Board's jurisdiction. All entities that apply for a license, permit, certification and registration should benefit from the reduction in the number of copies of applications that are required to be filed. Licensees that are publicly traded will no longer submit copies of SEC filings, which may be voluminous, but will simply provide notice of an SEC filing. Institutional investors should benefit as they will no longer be required to obtain a waiver from the Board prior to acquiring a greater ownership interest in a licensee. Emergency gaming service providers should benefit as they will no longer be required to be certified or registered with the Board provided certain criteria are met. Lastly, manufacturer designees will no longer be required to establish a place of business in the Commonwealth as a condition of licensure.

(11) 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 standards for any of these provisions in this rulemaking.

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

It is not anticipated that this rulemaking will have an impact on Pennsylvania's ability to compete with other states. With respect to institutional investors in particular: institutional investors in Pennsylvania are currently capped at a 10% ownership interest in a publicly traded holding company of a slot machine licensee. To obtain a greater ownership interest, the passive investor would have to file a petition with the Board and receive a waiver prior acquiring a greater interest. In other gaming jurisdictions, institutional investors typically can acquire a 15% passive ownership interest, if not more, without additional approvals needed. Based on an analysis of other gaming jurisdictions, the passive nature of the ownership interests and the SEC oversight of institutional investors, the Board has increased the allowable ownership interest to 20% provided information is supplied to the Bureau of Investigations

and Enforcement prior to acquiring the interest. Institutional investors will now be capped at 20% because a greater ownership interest would trigger other statutory provisions.

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

This regulation will not affect any other regulations of the PGCB or any other state agency.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. (“Small business” is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

The revisions contained in this rulemaking are based on the Board’s experience to date and communications between agency staff and the regulated community. No other persons or groups were involved in the development and drafting of the regulations.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

Gaming service providers, which may or may not be small business, which provide emergency services to slot machine licensees will no longer be required to be certified or registered with the Board, a cost savings of at least \$2,500. To date, very few gaming service providers have provided emergency services to a licensee and therefore would’ve been subject to the certification or registration requirements.

Nongaming employees will be required to renew their registration once every four years. Nongaming employees are currently the only individuals who do not submit a renewal application and complete a subsequent background investigation. The cost for renewal will be approximately \$40 and will cover the cost of fingerprinting and criminal background check with the Pennsylvania State Police.

Manufacturer designees will no longer be required to establish a place of business in the Commonwealth as a condition of licensure which should result in a cost savings.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

Any individual or entity that applies with the Board for a license, permit, registration, certification, authorization or qualification will be subject to the changes made in this rulemaking. A majority of the changes were made for clarity and to delete redundant provisions and will therefore not have a substantive impact on applicants. Nongaming employees, publicly traded gaming service providers and

institutional investors will be most impacted by this rulemaking. There are approximately 4,500 nongaming employees who, if still employed in a position that requires registration in four years, will be required to renew their registration. Additionally, there are approximately 85 publicly traded gaming service providers that, if still providing goods or services to a slot machine licensee in four years, will be required to renew their exemption from the gaming service provider registration and certification requirements.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

Nongaming employees

Currently registrations do not have an expiration date. Nongaming employees do not submit a renewal application and therefore no subsequent background investigation is conducted beyond initial registration. The Board believes that submission of a renewal application and subsequent background investigation is necessary to protect the integrity of gaming as it will ensure that every nongaming employee remains suitable to hold a registration.

Additionally, placing an expiration date on nongaming registrations will eliminate unnecessary administrative expenses associated with an ever growing number of individuals who no longer work in the gaming industry. There are currently over 4,500 nongaming employees who remain registered with the PGCB but have not worked in a position that requires registration for two years or more.

The regulation will require that nongaming employee registrations be renewed every four years. The application will be submitted electronically through the PGCB's SlotsLink system. The renewal will cost approximately \$40 which will cover the cost of fingerprinting with the Pennsylvania State Police and the criminal background check. The Bureau of Licensing will use the expiration date on the credential as the renewal date which will ensure that renewals are staggered and will not all occur within the same month or year. If the current number of nongaming employees are still employed in a position that requires registration at the time their credential expires, the Board anticipates that the renewals will be staggered as follows:

- Year 2014 – approximately 700 renewals
- Year 2015 – approximately 1,000 renewals
- Year 2016 – approximately 1,450 renewals
- Year 2017 – approximately 1,400 renewals

Publicly traded - gaming service providers (GSP)

In 2010, the Board amended the GSP regulations and exempted publicly traded GSPs from the requirements of certification or registration. To be eligible for the exemption, each publicly traded GSP was required to complete an authorization form to be placed on the authorized GSP list. At that time there was no expiration placed on exemption. Although the Board believes that publicly traded GSPs should still be exempt from the certification and registration requirements, the Board has placed an expiration date on the exemption. Every 4 years, publicly traded GSPs that are exempt will have to submit the authorization form to verify that the GSP has continued to provide goods and services to

licensed facilities and is still eligible for the exemption. There are approximately 85 publicly traded GSPs that would be required to renew their exemption if the publicly traded GSP is still providing goods and services to a slot machine licensee. The renewal fee is currently \$250. If all currently exempt publicly traded gaming service providers are still providing goods and services to a licensee in four years and apply to renew the exemption, the renewals would be staggered as follows:

- Year 2014 – 28 renewals
- Year 2015 – 23 renewals
- Year 2016 – 14 renewals
- Year 2017 – 18 renewals

It is not anticipated that the remaining provisions will have a cost impact on the regulated community.

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

This regulation should provide clarity to applicants and holders of a license, permit, registration, certification or authorization. The benefits of requiring renewal of a nongaming employee permit or publicly traded gaming service provider exemption are discussed in detail above.

(19) 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.

It is anticipated that a majority of the revisions contained in this rulemaking will not result in a substantial cost or savings to the regulated community with the exception of nongaming employees and publicly traded gaming service providers. The costs associated with renewal of the registration or the exemption are discussed in (17) above.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

This rulemaking will have no fiscal impact on local governments.

(21) Provide a specific estimate of the costs and/or savings to the **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.

The Board does not expect that the provisions contained in this rulemaking will have any fiscal impact on the Board or any other Commonwealth agency. The cost to the Pennsylvania State Police for fingerprint is a reimbursable expense.

(22) For each of the groups and entities identified in items (19)-(21) above, 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.

The renewal form for nongaming employees will be submitted electronically through the PGCB’s Slots Link system. The employee can complete the electronic application on any computer or device with internet access.

Publicly traded gaming service providers currently complete a three-page form to receive the exemption from the gaming service provider certification and registration requirements. The renewal will be completed on the same form which is available on the Board’s website.

As specified in the regulation, an institutional investor that acquires an interest in a licensee is required to complete a one-page Institutional Investor Notice of Ownership form. A component of the form will be the one-page Passive Investor Affirmation, which is attached.

(23) 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:						
Regulated Community*	N/A	\$35,000	\$45,750	\$61,500	\$60,500	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		\$35,000	\$45,750	\$61,500	\$60,500	
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

*These figures are contingent on all currently registered nongaming employees and exempt publicly traded gaming service providers applying for renewal or exemption within the next four years (Registrations: 700 in FY+1; 1,000 in FY+2; 1,450 in FY+3; and 1,400 in FY+4)(Exemptions: 28 in FY+1; 23 in FY+2; 14 in FY+3; 18 in FY+4) at a renewal fee of \$40 and \$250 respectively. It is not

known at this time how many nongaming employees or publicly traded gaming service providers would be required to renew their four-year registration or exemption in FY+5.

(23a) 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	33,800,000	35,501,000	36,098,000	36,908,000

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
The eleven slot machine licensees that operate in the Commonwealth of Pennsylvania will be impacted by this rulemaking; however, in accordance with the United States Small Business Administration's Small Business Size Regulations, under 13 CFR Ch. 1 Part 121, none of the casinos qualify as a small business.

Applicants for a supplier, manufacturer, manufacturer designee or principal license or gaming service provider certification or registration may qualify as a small business, however, it is not anticipated that this rulemaking will have an adverse impact.

- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
A majority of the revisions were made for clarity to the regulated community. It is therefore not anticipated that the regulated community that would qualify as a small business will incur additional costs.
- (c) A statement of probable effect on impacted small businesses.
Small business applicants should see a slight cost savings associated with the number of applications required.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.
None

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

No special provisions have been added.

(26) 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.

Other regulatory approaches were considered with respect to institutional investors. The revisions to the

current provisions are consistent with the Act and are similar to the thresholds applicable in comparable gaming jurisdictions. A majority of the other revisions were made for clarity therefore no alternative regulatory approaches were considered.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
N/A
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
N/A
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
N/A
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
N/A
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.
N/A

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

There is no data, as defined under section (3) of the Regulatory Review Act (71 P.S. § 745.3), upon which this rulemaking is based.

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

- A. The date by which the agency must receive public comments: 30 days from publication
- B. The date or dates on which public meetings or hearings

will be held:	N/A
C. The expected date of promulgation of the proposed regulation as a final-form regulation:	2 nd quarter 2014
D. The expected effective date of the final-form regulation:	Upon publication
E. The date by which compliance with the final-form regulation will be required:	Upon publication
F. The date by which required permits, licenses or other approvals must be obtained:	Ongoing

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

This rulemaking is a comprehensive amendment package revising thirteen of the fifteen chapters in Subpart B (relating to licensing). This rulemaking is the second comprehensive amendment package that the Board has adopted. The first, 125-168, addressed chapters in Subparts G, I and J. The Board will continue to evaluate existing regulations and amend provisions accordingly. No formal review schedule has been established.