



PENNSYLVANIA GAMING CONTROL BOARD
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August 6, 2024

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**RE: Industry Guidance 2024-05
PGCB Gaming Lab Approval Process**

Dear Manufacturers and Suppliers:

I write to provide you with an update on the Pennsylvania Gaming Control Board's ("Board" or "PGCB") gaming lab approval process, as well as to provide some insight into how we plan to proceed going forward to best serve the industry, while maintaining compliance with our obligation to ensure strict oversight of gaming in the Commonwealth as required by our enabling legislation, the Pennsylvania Race Horse Development and Gaming Act, 4 Pa.C.S. §1101, et. seq. ("Gaming Act") and the regulations promulgated thereunder, 58 Pa. Code Part VII ("Regulations").

Since the beginning of the year, I have worked closely with our gaming lab personnel to streamline the process of issuing approval letters for products submitted with independent testing lab ("ITL") certifications. As you are aware, the advent of iGaming in the Commonwealth resulted in a substantially higher volume of gaming equipment and software submissions. Notwithstanding that fact, the new streamlined process of issuing approval letters has increased the pace over the past six months. In fact, during the first six months of 2024, the gaming lab issued 1,016 submission approval letters, more than any other previous six-month period.

The gaming lab approval process has, to date, taken the following steps to ease the strain of an ever-increasing number of submissions: (1) focusing gaming lab personnel on priority submissions; (2) freeing up gaming lab staff from work assignments related to progressive jackpots; and (3) minimizing gaming lab staff's verification of the ITL certification. In addition, the Board continues to hire lab staff. In February 2024, we hired an additional electronic engineer and a statistician. More recently, two additional statisticians commenced work on July 1, 2024. The Board anticipates adding additional positions to the gaming lab's staffing complement in fiscal year 2024-25.

Board staff has always worked closely with the industry and we have been effective in keeping pace with the products each of you most want deployed. We do this utilizing a submission review strategy in which PGCB staff consult with licensees to prioritize and reprioritize the submission review queue for each licensee, rather than using a more streamlined first in, first out (“FIFO”) review process. Rest assured; we plan to continue to do this.

With the above being said, and with a guarantee that our best efforts will continue, it is also important that you, in the industry, are aware of some of the pressures and constraints the Board must contend with in this arena and, where possible, perhaps you can help us to help you.

First, Section 1320(b.1) of the Gaming Act does not allow the gaming lab to simply rubber stamp submissions by an ITL. Rather, the lab is required to have an “abbreviated certification process” for ITL tested submissions. Less comprehensive than what the gaming lab would perform for submissions made directly to it, but still a process “requiring” information the gaming lab “determines to be necessary.” 4 Pa.C.S. §1320(b.1). As stated previously, the gaming lab has narrowed the scope of its review to the greatest degree it believes possible under the Gaming Act at present but will remain vigilant in seeking time-saving measures in the future that do not run contrary to the law.

Second, approximately 10% of ITL certified products require the gaming lab to go back to the manufacturer or the ITL to correct an error. These errors can be a mistake in the ITL certification process but are more often caused by the manufacturer submitting to the gaming lab a version that is different than the version tested by the ITL. While a certain amount of human error is unavoidable, this rate of error remains too high. Notwithstanding that fact, the gaming lab typically makes best efforts to not fully reject these submissions (thereby requiring a “start from scratch” with a new submission) but works with the manufacturer/ITL to correct the problem. Still, addressing these issues take away valuable time from lab staff.

Third, the gaming lab consistently struggles with ever-changing contact persons at manufacturers. This may be caused by employee turnover or changing roles within the organization. Regardless of the cause, if manufacturers can be more cognizant of this problem (which, again, consumes valuable lab employee time), and address it, it will further help to expedite approvals.

With a higher volume of submissions, the Board in late 2023 promulgated Regulations regarding the approval process of games, gaming devices, and associated equipment. These regulations can be found at 58 Pa. Code Chapter 461a ([Pennsylvania Bulletin](#)). Notwithstanding the Board’s best efforts during the promulgation process, in recent conversations between Board staff and various PGCB licensees, a reoccurring state of confusion has been communicated—specifically, “what do the revised final regulations mean, and what effect will the regulations have on the PGCB approval process?” Please be assured that the regulations do not represent any fundamental shift in PGCB’s approval process for ITL certified items. Rather the Regulations incorporate ITLs into the PGCB approval process regulations, consistent with the 2017 gaming expansion legislation.

Many questions have been raised specifically regarding subsection 461a.4(q). Subsection 461a.4(q) provides that submissions made to PGCB for abbreviated certification (an ITL submission) shall, if not acted upon within 30-days by PGCB, be deemed conditionally approved until the Executive Director renders a decision. However, 461a.4(q) cannot be given effect absent other provisions of § 461a.4. Specifically, subsections 461a.4 (r) and (s) provide grounds for tolling the 30-day review period, including when a submission cannot feasibly be completed within 30 days. PGCB’s tolling halts the clock for submissions being deemed conditionally approved under § 461a.4(q).

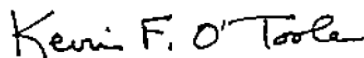
To date, the gaming lab has not officially tolled any submission, as lab personnel continue to work with the industry to approve high priority items as quickly as possible and, to the best of my knowledge, no products unapproved by the gaming lab have been pushed into the marketplace. As noted above, this has worked well, and will remain the process used by the gaming lab even after individual tolling memos commence being sent on October 1, 2024. In the interim, consistent with the PGCB/industry practice to date, all submissions more than 30 days old as of the date of this letter through September 30, 2024, shall be considered tolled.

To be clear, effective October 1, 2024, manufacturers can expect to see written tolling notices from PGCB if a product reaches the 30-day mark without being approved. However, in an ongoing effort to continue to help the industry, the gaming lab will continue to prioritize its workload to certify high priority products. Moreover, given the changes discussed above, it is our hope that the gaming lab will continue to increase its rate of clearance for lab submissions. We will also continue to evaluate policies and procedures to further streamline review.

Finally, the PGCB intends to institute a policy of administrative withdrawal of certain submissions that have remained open for a prolonged period of time awaiting responses to gaming lab questions or supplementation of missing documentation. This will also begin on or around October 1, 2024. With that in mind, please review your outstanding lab submissions, and as part of your prioritization and consultation with gaming lab staff, withdraw any lab submissions without a tentative timeline for implementation by a licensed gaming operator.

We appreciate your patience as PGCB continues to address efficiencies of the lab approval of submissions and your help in addressing some of the issues. If you have any questions relating to lab submissions, please contact Heather Worner, Director of the Office of Gaming Laboratory Operations, via email at hworner@pa.gov. If you have any questions relating to the Board's regulations, please contact Robert Wood, Assistant Chief Counsel, via email at rmwood@pa.gov.

Sincerely,



Kevin F. O'Toole
Executive Director

KFO/rmw

cc: Steve Cook, Chief Counsel, PGCB
Claire Yantis, Administrative Director, PGCB
Paul Resch, Director, Bureau of Gaming Operations, PGCB
Lee Copello, Director, iGaming Compliance Operations, PGCB
Heather Worner, Director, Office of Gaming Laboratory Operations, PGCB
Kevin Kile, Director, Sports Wagering Operations, PGCB
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