

**WEST VIRGINIA  
SECRETARY OF STATE  
JOE MANCHIN, III  
ADMINISTRATIVE LAW DIVISION**

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2008 APR 14 PM 3:02

OF THE  
SECRETARY OF STATE

Form #6

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY STATE LOTTERY COMMISSION

NUMBER: 179

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 8

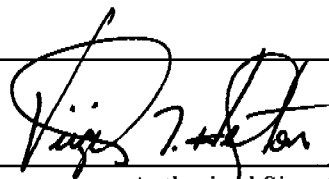
TITLE OF RULE BEING PROPOSED: RACETRACK TABLE GAMES RULE

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB 417

SECTION 64-7-3, PASSED ON MARCH 8, 2008

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON THE  
FOLLOWING DATE: JULY 1, 2008



Authorized Signature

**WEST VIRGINIA LEGISLATIVE RULES  
WEST VIRGINIA LOTTERY  
TITLE 179  
SERIES 8 - New  
2008**

**RACETRACK TABLE GAMES RULE**

PROMULGATION HISTORY

**STATUTE.** On **March 8, 2007**, the Legislature enacted the West Virginia Lottery Racetrack Table Games Act, W.Va. Code §29-22C-1 et seq. This Act allows licensed pari-mutuel racetracks to offer table games Section 4(b)(5) of the Act grants rule-making authority to the Commission. The Act became effective on **June 6, 2007**.

**RULE – FILED FOR COMMENT.** The State Lottery Commission prepared a proposed legislative rule and ordered the Director of the Lottery Office to submit it to the public for review and comment. This amended legislative rule was filed in the offices of the Secretary of State and the Legislative Rule-Making Review Committee on **June 13, 2007**.

**AGENCY APPROVED RULE.** After the close of the comment period, **July 16, 2007**, the West Virginia State Lottery Commission reviewed the comments received and ordered the agency-approved proposed rule filed with the Secretary of State and the Legislative Rule-Making Review Committee. The agency-approved proposed rule was filed in the offices of the Secretary of State and the Legislative Rule-Making Review Committee on **July 27, 2007**.

**RULE MAKING REVIEW.** On **November 28, 2007**, the Legislative Rule-Making Review Committee considered the agency-approved rule and approved it with changes suggested by the Committee Counsel.

**MODIFIED RULE.** All changes were agreed to by the agency and the modified rule was filed in the offices of the Secretary of State and the Legislative Rule-Making Review Committee on **December 26, 2007**.

**RULES BILL.** The proposed rule was made part of **Senate Bill 417** and was passed by the Legislature on **March 8, 2008**, effective from passage, and signed by the Governor on **March 27, 2008**.

**FINAL FILING** The rule, with Cabinet Secretary Helton's approval, was final-filed in the State Register on **April 4, 2008**, and was effective **July 1, 2008**.

**WEST VIRGINIA MODIFIED LEGISLATIVE RULE  
WEST VIRGINIA LOTTERY  
TITLE 179  
SERIES 8  
2008**

**FILED**  
2008 APR 14 PM 3:02

CHIEF CLERK  
SECRETARY OF STATE

**RACETRACK TABLE GAMES**

**§179-8-1. General**

1.1. Scope and Purpose. - The purpose of this rule is to license and regulate up to four pari-mutuel racetracks licensed by the State Lottery Commission, license gaming suppliers and facility employees and management services providers, and define and regulate the operation of table games at licensed racetracks.

1.2. Authority - W. Va. Code - §29-22C-4(b)(5) and SB 417 - W.Va. Code §64-7-3

1.3. Filing Date - April 14, 2008

1.4. Effective Date - July 1, 2008

**PART 1. DEFINITIONS**

**§179-8-2. Definitions.**

For the purposes of this rule the following words and phrases have the meaning ascribed to them in this Section unless the context of the rule clearly indicates otherwise, or unless inconsistent with the manifest intention of the State Lottery Commission.

2.1 "Act" means the West Virginia Lottery Racetrack Table Games Act, West Virginia Code §29-22C-1 et seq.

2.2 "Adjusted gross receipts" means the dollar amount that is won by the casino licensee through play at live table games, which is the total of United States currency, chips, front money or markers contained in the drop box, plus ending chip inventory, minus opening chip inventory, plus chip credits, minus table fills, minus match play coupons.

2.3 "Attributed interest" means any direct or indirect interest in a business entity determined by the Commission to be held by an individual through holdings of the individual's immediate family or other persons and not through the individual's actual holdings.

2.4 "Cage" and "cage area" means a secure work area within the casino for cashiers and a storage area for the casino's working fund of cash and gaming chips; it also serves as a

depository control for gaming credit instruments.

2.5 "Cash" means United States currency and coin that may be exchanged for its equivalent United States currency and coin value.

2.6 "Cash equivalent" means an asset that is readily convertible to cash. All instruments that constitute a cash equivalent shall be made payable to the casino licensee, bearer, or cash. If an instrument is made payable to a third party, the instrument shall not be considered a cash equivalent. Cash equivalent instruments include, but are not limited to, any of the following:

2.6.a Travelers checks;

2.6.b Certified checks, cashier's checks, and money orders;

2.6.c Personal checks or drafts;

2.6.d Credit extended by the casino licensee, a recognized credit card company, or banking institution; and

2.6.e Any other instrument that the Commission considers a cash equivalent.

2.7 "Casino" means a facility licensed by the Commission to offer to the public both video lottery games under W.Va. Code §29-22A-1 et seq. and W.Va. Code §29-22C-1 et seq.

2.8 "Casino license" means a license issued by the Commission to one person to own and operate one casino in West Virginia under the Racetrack Table Games Act and the Racetrack Video Lottery Act.

2.9 "Casino licensee" means the holder of a license issued by the Commission to one person to own and operate one casino in West Virginia under the Racetrack Table Games Act and the West Virginia Lottery Racetrack Video Lottery Act.

2.10 "Casino operations" means operations of the casino other than gaming operations, including the purveying of food, beverages, and retail goods and services in the gaming areas of the racetrack.

2.11 "Casino surveillance room" means a room or rooms at the casino for monitoring and recording casino operations and gaming operations by the casino licensee.

2.12 "Chip" means a small disk issued by the casino licensee representing a set value that is used for making table game wagers and is redeemable only for cash, the casino licensee's check or in redemption of a marker.

2.13 "Commission" or "State Lottery Commission" means the State Lottery Commission created by the State Lottery Act, West Virginia Code §§29-22-4 and 5. In context,

“Commission” may also mean the state lottery office described in West Virginia Code §§29-22-6 and 7.

2.14 "Complaint form" means the form, prescribed by the Commission, that a patron shall complete and submit in order to file a patron complaint.

2.15 "Counterfeit chip" means a chip that has not been approved under this rule.

2.16 "Count room" means the room or rooms designated for the counting, wrapping, and recording of the casino licensee's gaming receipts.

2.17 "Dependent" means any individual who received over one-half of his or her support in a calendar year from any other individual.

2.18 "Designated gaming area" means one or more specific floor areas of a licensed racetrack within which the commission has authorized operation of racetrack video lottery terminals or table games, or the operation of both racetrack video lottery terminals and West Virginia Lottery table games: *Provided*, That for the sole purpose of controlling access to such games by employees hired by the casino licensee on or before the fifteenth day of September, two thousand seven, who are at least eighteen years of age and not older than twenty years of age, "designated gaming area" shall mean any floor area of a licensed racetrack which is within two feet of any gaming table.

2.19 "Director" means the individual appointed by the Governor to provide the management and administration necessary to direct the Lottery office or any other person to whom the Director's authority is lawfully delegated.

2.20 "Drop" means the total dollar amount of the currency, coins, chips, tokens, front money and/or markers removed from the live gaming devices. If a patron is using an electronic card, then the drop includes the amount deducted from a patron's account.

2.21 "Drop box" means the dual key-locked box attached to a live gaming device table that is used to collect, but is not limited to, any of the following items:

- 2.21.a Currency;
- 2.21.b Coin;
- 2.21.c Chips;
- 2.21.d Cash equivalents;
- 2.21.e Damaged chips;
- 2.21.f Documents verifying the extension and redemption of credit;

- 2.21.g Requests for fill and credit forms;
- 2.21.h Fill and credit slips;
- 2.21.i Error notification slips;
- 2.21.j Table inventory forms; and
- 2.21.k All other forms used by the casino licensee and deposited in the drop box as part of the audit trail.

2.22 "Excluded person" means a person whose name appears on an exclusion list of any jurisdiction, or a person whose name does not appear on an exclusion list, but who is excluded or ejected as a result of meeting one or more of the exclusion criteria specified in this rule.

2.23 "Exclusion list" means a list or lists that contain identities of persons who are to be excluded or ejected from any gaming operation in any jurisdiction.

2.24 "Financial statement" means any or all of the following:

- 2.24.a A balance sheet;
- 2.24.b An income statement;
- 2.24.c A profit and loss statement;
- 2.24.d A statement of cash flow; or
- 2.24.e A sources and uses of funds statement.

2.25 "Front money" means a patron deposit that is used in lieu of credit to guarantee payment of a marker issued or to establish a line of credit for wagering purposes.

2.26 "Game" means any individual or particular type of casino table game authorized by the Commission.

2.27 "Gaming area" means the room or rooms in the casino in which table games are conducted.

2.28 "Gaming equipment or supplies" means gaming tables; the felt layouts for live table games; roulette wheels and wheels of fortune; playing cards and dice; drop boxes and count room specialized equipment; any representatives of value, including, without limitation, chips, or electronic debit cards; related hardware and software that do not affect the result of a table game; or machines, mechanisms, devices, or implements that affect the result of a table game by

determining a win or loss.

2.29 "Hearing officer" means the Commission member, the Director or the administrative hearing officer designated by the Director to conduct or assist the Commission in the conduct of a hearing on any matter within the jurisdiction of the Commission.

2.30 "Holding company" means any person, other than an individual, that:

2.30.a Directly or indirectly owns, has the power or right to vote or control, or holds with the power to vote more than five percent of the stock, equity interest, or other voting security of a person that holds, or has applied for, the casino license or a supplier's license; or

2.30.b Directly or indirectly holds, or substantially owns, any power, right, or security through any interest in a subsidiary or successive subsidiaries, regardless of how many subsidiaries may intervene between the holding company and the holder or applicant for, or holder of, the casino license or a supplier's license.

2.31 "Immediate family" means any of the following, whether by whole or half blood, marriage, adoption, or effect of law:

2.31.a A spouse, other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance;

2.31.b A parent;

2.31.c A child;

2.31.d A dependent;

2.31.e A sibling;

2.31.f A spouse of a sibling;

2.31.g A father-in-law; or

2.31.h A mother-in-law.

2.32 "Indirect interest" means an interest, claim, right, legal share, or other financial stake in a person that is determined by the Commission to exist by virtue of a financial or other interest in another person.

2.33 "Individual" means any natural person.

2.34 "Intermediary company" means any corporation, firm, partnership, trust, limited liability company, or other form of business entity that:

2.34.a Is a holding company of a person that has applied for or holds the casino license or a supplier license; or

2.34.b Is a direct-line subsidiary of any holding company of a person that has applied for or holds the casino license or supplier license.

2.35 "Internal control system" means the internal procedures, administration, and accounting controls designed by the casino licensee for the purpose of exercising control over the gaming operation and its assets.

2.36 "Junket" means an arrangement to induce persons who are selected or approved for participation on the basis of their ability to satisfy a financial qualification obligation related to their ability or willingness to come to the casino for the purpose of gaming and who receive as consideration all or part of the cost of transportation, food or entertainment directly or indirectly paid by the casino licensee or its agent.

2.37 "Junket representative" means a person, other than the casino licensee or the casino license applicant, who receives payment for the referral, procurement, or selection of persons who may participate in a junket to the casino in West Virginia, based upon the person's actual or calculated potential to wager or lose, whether or not the activities of the junket representative occur within the State of West Virginia.

2.38 "Key person" means any of the following entities:

2.38.a An officer, director, trustee, partner, or proprietor of a person that holds the casino license or has applied for or holds a supplier license or an affiliate or holding company that has control of a person that has applied for or holds the casino license or a supplier license;

2.38.b A person that holds a combined direct, indirect, or attributed equity interest of more than five percent in a person that has applied for or holds the casino license or a supplier license;

2.38.c A person that holds a combined direct, indirect, or attributed equity interest of more than five percent in a person that has a controlling interest in a person that has applied for or holds a casino license or a supplier license;

2.38.d A managerial employee of a person that has applied for or holds the casino license or a supplier license in West Virginia, or a managerial employee of an affiliate or holding company that has control of a person that has applied for or holds the casino license or a supplier license in West Virginia, who performs the function of principal executive officer, principal operating officer, principal accounting officer, or an equivalent officer;

2.38.e A managerial employee of a person that has applied for or holds the casino license or a supplier license, or a managerial employee of an affiliate or holding company that

has control of a person that has applied for or holds the casino license or supplier license, who will perform or performs the function of gaming operations manager, or will exercise or exercises management, supervisory, or policy-making authority over the proposed or existing gaming operation, casino operation, or supplier business operations in West Virginia and who is not otherwise subject to occupational licensing in West Virginia.; or

2.38.f An institutional investor who has a controlling interest in the licensee. For purposes of this rule, the term institutional investor does not include owners of common stock of a licensee by a state or federally licensed banking institution, nor does it include ownership of a licensee's stock by an institutional investor such as a pension fund or a mutual fund registered with the United States Securities and Exchange Commission, as well as a registered investment company, a registered investment advisor, a collective trust fund or a qualified insurance company as those entities are defined in the Investment Company Act of 1940 and the Investment Advisors Act of 1940, that is holding the stock only as an investment and not for purposes of control of the licensee or permit holder.

2.39 "Licensee" means a person who holds a license under the Act.

2.40 "Live game" means a table game that is played at a gaming table operated by employees of the licensed casino who are physically present at the table during all table game play.

2.41 "Live gaming device" means any apparatus used to play table games including, but not limited to, any of the following:

- 2.41.a A roulette wheel and table;
- 2.41.b A blackjack table;
- 2.41.c A craps table;
- 2.41.d A poker or other card game table; or
- 2.41.e Other Commission-approved table games.

2.42 "Lottery," when the first letter is capitalized, means the State Lottery of West Virginia, its Director and the State Lottery Commission and its Commissioners that operate and administer the State Lottery, pursuant to authority granted under the Act and under the State Lottery Act, W.Va. Code §29-22-1 et seq., the Racetrack Video Lottery Act, W.Va. Code §29-22A-1 et seq., and the West Virginia Lottery Racetrack Table Games Act, W.Va. Code §29-22C-1 et seq.

2.43 "Lottery-specified identifier symbol" means a logo, symbol or icon that is the intellectual property of the State Lottery Commission created and designated specifically for use on approved table gaming equipment and supplies as allowed by W.Va. Code §29-22C-8(e)(4).

2.44 "Main bank" means the casino department that is responsible for at least all of the following:

2.44.a Cashing customer checks;

2.44.b Establishing hold check privileges;

2.44.c Redeeming chips or tokens, or both;

2.44.d Providing working funds to all operational departments;

2.44.e Deposits of front money;

2.44.f Maintaining custody of all chip inventories;

2.44.g Processing markers; and

2.44.h Assuming responsibility for all of the following individuals and physical structures:

2.44.h.1 Casino cashiers;

2.44.h.2 Change attendants;

2.44.h.3 Main bank vault or vaults; and

2.44.h.4 Any other structure that houses tokens, chips, or other representatives of value that for which the main bank is accountable.

2.45 "Marker" means an electronic or written document that evidences an extension of credit to a patron by the casino licensee, or a front money withdrawal, including any writing taken in consolidation, redemption, or payment of a previous marker.

2.46 "Match play coupon" means a promotional item in paper or plastic form with a fixed stated play ratio and value that is issued and used by a licensee, and the stated value of which, when presented by a patron with gaming chips which are in the stated ratio in value to the stated value of the promotional item, is included in the amount of the patron's wager in determining the amount the patron receives as the result of a winning wager made with the gaming chips and their accompanying promotional item.

2.47 "Non-value chip" means a chip which is clearly and permanently impressed, engraved, or imprinted with the name of the casino licensee, but which does not bear a value designation.

2.48 "One-on-one continuous surveillance" means that a licensed surveillance employee is dedicated to continuously monitor a given area without interruption or distraction as prescribed by the Commission.

2.49 "Patron complaint" means a complaint a patron has regarding winnings and losses or the conduct of gaming at the casino.

2.50 "Person" means a human being, association, corporation, club, trust, estate, society, governmental entity, company, joint stock company, receiver, trustee, assignee, referee, and anyone acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of human beings.

2.51 "Picture identification" means a driver's license or other piece of identification which is issued by a governmental entity and which has a picture of the individual affixed to, or which is otherwise part of, the document.

2.52 "Pit" means the area of arrangement of a group of gaming tables in which casino gaming personnel administer and supervise the live table games played at the grouping of tables.

2.53 "Predecessor company" means an entity which no longer exists in its original form, but which has assets that have been acquired, in substantial part, by another person or which has undergone certain internal changes, such as a change in identity, form, or capital structure.

2.54 "Publicly held company" or "publicly traded corporation" means any of the following:

2.54.a A person, other than an individual, to which either of the following provisions applies:

2.54.a.1 The person has one or more classes of voting securities registered under section 12 of the Securities and Exchange Act of 1934, 15 U.S.C. § 78l;

2.54.a.2 The person issues securities and is subject to section 15(d) of the Securities and Exchange Act of 1934; or

2.54.a.3 Another person, other than an individual, required to file under the Securities and Exchange Act of 1934; and

2.54.b A person, other than an individual, created under the laws of a foreign country to which both of the following provisions apply:

2.54.b.1 The person has one or more classes of voting securities registered on the foreign country's securities exchange or over-the-counter market, including any person, other than an individual, that has securities registered or is an issuer under this definition solely because it guaranteed a security issued by an affiliate under a public offering and is considered by

the Securities and Exchange Commission to be a co-issuer of a public offering of securities under rule 140 of the Securities and Exchange Act of 1934, 15 U.S.C. § 78;

2.54.b.2 The Commission has determined that the person's activities are regulated in a manner that protects the investors and the State of West Virginia, including any person, other than an individual, that has securities registered or is an issuer under this definition solely because it guaranteed a security issued by an affiliate under a public offering and is considered by the Securities and Exchange Commission to be a co-issuer of a public offering of securities under rule 140 of the Securities and Exchange Act of 1934; and

2.54.c A person, other than an individual, that has shares which are traded on an established securities market or traded on a secondary market.

2.55 "Registered agent" means an individual designated to accept service of legal process on behalf of another person.

2.56 "Related party" means one of the following:

2.56.a An individual or business entity that has a pecuniary interest in the casino licensee, a license applicant, or an affiliate thereof, if the casino licensee, license applicant, or affiliate is not a publicly held company;

2.56.b A holder of more than five percent of the outstanding shares of the casino licensee, a license applicant, or an affiliate thereof, if the casino licensee, license applicant, or affiliate is a publicly held company;

2.56.c A key person of the casino licensee, a license applicant, or an affiliate of the casino licensee or a license applicant;

2.56.d An affiliate of the casino licensee or a license applicant;

2.56.e An immediate family member of a holder of more than five percent of the outstanding shares of the casino licensee, a license applicant, or an affiliate of the casino licensee or a license applicant;

2.56.f A relative of a key person of the casino licensee, a license applicant, or an affiliate of the casino licensee or a license applicant;

2.56.g A relative of an affiliate of the casino licensee or a license applicant;

2.56.h A trust for the benefit of, or managed, by the casino licensee, a license applicant, or an affiliate or a key person of the casino licensee or a license applicant;

2.56.i Any other person who is able to significantly influence the management or operating policies of the casino licensee, a license applicant, or an affiliate of the casino licensee or a license applicant; or

2.56.j An institutional investor that has a controlling interest in a person that has applied for or holds the casino license or supplier license.

2.57 "Relative" means any of the following entities whether by whole or half blood, marriage, adoption, or natural relationship:

2.57.a A spouse, other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance.

2.57.b A parent;

2.57.c A grandparent;

2.57.d A child;

2.57.e A grandchild;

2.57.f A sibling;

2.57.g An uncle;

2.57.h An aunt;

2.57.i A nephew;

2.57.j A niece;

2.57.k A first cousin;

2.57.l A father-in-law;

2.57.m A mother-in-law;

2.57.n A son-in-law;

2.57.o A daughter-in-law;

2.57.p A brother-in-law;

2.57.q A sister-in-law; or

2.57.r A dependent.

2.58 "Sole proprietor" means an individual who owns one hundred percent of the assets and who is principally liable for the debts of a business, regardless of whether another person guarantees payment of the debts.

2.59 "Subsidiary" means a person, other than an individual, including, without limitation, a firm, partnership, trust, limited liability company, or other form of business organization in which an equity interest is owned, subject to a power or right of control, or held with the power to vote directly, indirectly, or in conjunction with a holding company or intermediary company.

2.60 "Sufficient amenities," as the term is used in W.Va. Code §29-22C-8(g)(3), means hotel services including room service, internal access to full-service restaurants, optional guest room turn-down service, valet parking, luggage services, spas and/or a fitness center, swimming pool, twenty-four hour housekeeping services, concierge services, in-room movies service, high-speed Internet connectivity in guest rooms, and ample rooms and services for physically handicapped patrons.

2.61 "Supplier" means a person who provides the casino with table gaming goods and services to the related goods at the casino including, but not limited to any of the following persons:

2.61.a Manufacturers of gaming devices, supplies, articles or equipment; and

2.61.b Distributors of gaming devices, supplies, articles or equipment.

2.62 "Surety bond" means a contractual arrangement between the surety, the principal, and the obligee in which the surety agrees to protect the obligee if the principal defaults in performing the principal's contractual obligation. The bond is the instrument that binds the surety.

2.63 "Value chip" means a chip that is clearly and permanently impressed, engraved, or imprinted with the name of the casino and the specific value of the chip.

2.64 "Voting security" means a security that the holder is entitled to vote generally for the election of a member or members of the board of directors or board of trustees of a corporation or a comparable person or persons in the case of a partnership, trust, or another form of business organization other than a corporation.

## **PART 2. ADMINISTRATIVE PROVISIONS**

### **§179-8-3. Provisions pertaining to applications, records and Commission authority.**

3.1 In the interpretation of any rules adopted by the Commission, an ambiguity shall be resolved in favor of the interpretation which would provide either of the following:

3.1.a The greater assurance of integrity in either the operation or regulation of casino gaming; or

3.1.b Heightened public confidence in the regulation or regulatory processes relating to casino gaming.

3.2 If a provision of a rule promulgated by the Commission or the application of a rule to any person or circumstance, is held invalid by a court of competent jurisdiction, then the provision or application shall not affect other provisions that can be given effect without the invalid provision or application.

3.3. The casino licensee and each supplier licensee shall maintain, in a place secure from theft, loss, or destruction, adequate records of its business and accounting operations relating to the gaming operations regulated by this rule. The casino licensee or a supplier licensee shall make the records available to the Commission, upon request, within a reasonable time period prescribed by a subpoena *duces tecum* or by written request of the Director, or his or her designee. A casino licensee shall keep and maintain the books, records, or documents in a manner and form approved or required by the Commission.

3.3.a The casino licensee or a supplier licensee shall hold the records for the current year and the two previous years. Records held off-site shall be retrieved and presented to the Commission's representative within five days of the request to do so. The records shall include, but not be limited to, all of the following:

3.3.a.1 All correspondence with, or reports to, the Commission or any local, state, or federal governmental agency;

3.3.a.2 A personnel file on each employee; and

3.3.a.3 All accounting records, ledgers, subsidiary records, computer generated data and internal audit records pertaining to table gaming activities.

3.3.b Notwithstanding the foregoing provisions of subdivision 3.3.a of this rule, a casino licensee or supplier licensee shall hold copies of all promotional and advertising material, records, or complimentary distributions for the casino for at least one year.

3.3.c The casino shall organize and index all required records in a manner that enables the Commission to locate, inspect, review, and analyze the records with reasonable ease and efficiency.

3.3.d Nothing in subsection 3.3 of this rule shall be construed to require disclosure of documents subject to the attorney-client privilege if the licensee or applicant informs the Director of the existence of the document, a general description of its contents, and the basis for the privilege.

3.4 Unless otherwise permitted or required, a person shall submit all forms, fees, documents, papers, and other materials to Lottery Headquarters in the manner and form prescribed by the Commission.

3.5 A licensee shall disclose changes in information.

3.5.a Except as otherwise provided in this rule, if an obligation has been placed upon a licensee to report or submit information to the West Virginia Lottery, the reporting or submission may be accomplished by providing the information to an employee of the West Virginia Lottery.

3.5.b A licensee or an applicant for a license has a continuing duty to disclose promptly any material changes in information provided to the West Virginia Lottery as soon as the applicant or licensee becomes aware of the change. The duty to disclose changes in information continues throughout any period of licensure granted by the West Virginia State Lottery Commission. A licensee or applicant shall make sure that all required release of information forms submitted to the West Virginia Lottery are current.

3.6 An applicant or licensee shall disclose representatives.

3.6.a An applicant or licensee shall file with the West Virginia Lottery a list of persons authorized to act on the applicant's or licensee's behalf as to any matter before the Commission. An attorney appearing on behalf of an applicant or licensee in a matter before the Commission shall promptly file an appearance identifying his or her client and the matter in which the attorney will appear.

3.6.b A person holding or applying for the casino license or supplier license shall establish and identify a registered agent within the State of West Virginia for the purpose of accepting service of process, notices, and other forms of communication for the person holding or applying for a casino license or supplier license.

3.7 A casino licensee or supplier licensee shall conduct a reasonable investigation of the background of employees whose duties are related to, or involved in, the conduct of gaming operations in the State of West Virginia to reasonably ensure that the employee is eligible and suitable for the employment under the licensing standards and other requirements of the Act and this rule. A casino licensee or supplier licensee shall keep and maintain written records of investigations for all employees. The casino licensee or supplier licensee shall make the written records available to the Commission, upon request, within a reasonable time period prescribed by the West Virginia Lottery. Licensure by the Commission may not be relied on by the licensee as the sole criterion for hiring a job applicant.

3.8 Provisions for investigative hearings.

3.8.a The Commission, when necessary, may conduct hearings for the purpose of investigating an applicant, an application, a licensee, or a third party to gather information

regarding eligibility and suitability for licensure, alleged violations of the Act or this rule, or other Commission action under the Act or this rule.

3.8.b The Commission may require an applicant, a licensee, or a key person or employee of an applicant or licensee to testify or to produce any documents, records, or other materials at a proceeding conducted under this rule.

3.8.c The Commission, through the Director, may issue *subpoenas* and *subpoenas duces tecum* for the production of persons, documents, or other items at a proceeding conducted under this rule.

3.8.d All testimony at proceedings conducted under this rule shall be given under oath or affirmation administered by a Commission member, hearing officer, or the Director or a person designated by the Director.

3.9 Participation in games by owners, directors, officers, key persons, or gaming employees prohibited. An officer, director, key person, managerial employee, or occupational licensee of the casino licensee shall not play or be permitted to play any table game at the casino except in the course of employee training or when that person is demonstrating to one or more patrons how to play a permitted table game. A person regulated by this rule shall not be permitted to redeem chips or tokens for any other person, except that a person may redeem chips or tokens in the course of his or her employment with the casino.

3.10 Receipt of commercially reasonable consideration for contracts and transactions are required. A casino licensee or an applicant for, or holder of a supplier license may not enter into or perform any contract or transaction in connection with the operation of table games related to the casino license or supplier license for which application has been made or which the licensee holds unless the applicant or licensee transfers or receives consideration that is commercially reasonable.

**§179-8-4. Related party contracts or transactions.**

A related party transaction shall be in compliance with the internal control procedures submitted under section 3.16 of this rule or otherwise set by the Commission.

**§179-8-5. Duty of reasonable care.**

A casino licensee, supplier license applicant or supplier licensee shall exercise reasonable care to ensure that each contract or transaction the licensee or license applicant enters into meets the requirements of the Act and this rule.

**§179-8-6. Commission reports.**

The Commission shall specify from time to time the nature and frequency of reports a licensee shall make to the Commission to ensure compliance with the Act or this rule.

**§179-8-7. Mandatory contract notification.**

7.1 The Commission may direct a licensee or applicant to cancel any contract, purchase order or transaction relating to table games operations that the Commission determines does not comply with the Act and this rule. A contract relating to table games that is entered into by a casino licensee shall contain a provision permitting the casino licensee to terminate the contract if the Commission determines that the contract does not comply with the Act or this rule.

7.2 A casino licensee shall include a contract described in this rule in the quarterly and annual reports submitted under this rule.

**§179-8-8. Confidential records; limited release.**

Materials, or portions of materials, submitted under the Act or this rule may be identified as confidential by a licensee, an applicant for a license, or any other person. If the materials are exempt from disclosure by statute, the materials shall not be disclosed by the Commission, except to other federal and state gaming regulating agencies and law enforcement agencies.

**§179-8-9. General reporting requirements; obligation to report certain events.**

9.1 A person that holds a casino license, or that holds or applies for a supplier license, shall provide an immediate oral report, followed by a written report, of suspected criminal activity related to the person's proposed or existing gaming operation or casino operation or supplier operations in West Virginia. A person who holds the casino license or supplier license shall provide written notice to the Commission at the time the person becomes aware of any of the following:

9.1.a A violation or apparent violation of the Act or this rule by any of the following entities:

9.1.a.1 A person that applies for or holds a casino license;

9.1.a.2 An employee of a casino license or a casino license applicant, a key person of a casino licensee's or license applicant's holding company or affiliate that is in control of a key person;

9.1.a.3 A person that or holds a supplier license;

9.1.a.4 An employee of a person applying for or holding a supplier license, a key person of a supplier licensee's or license applicant's holding company or affiliate that is in control of a key person; or

9.1.a.5 A person who acts, or is authorized to act, on behalf of or in furtherance of the interests of the casino license or supplier license applicant or licensee, or a holding company or affiliate that is in control of the applicant or licensee.

9.1.b The initiation of any investigation that could, or any action that does, result in the imposition of any civil, criminal, or administrative sanction or penalty upon a person who applies for or holds the casino license or a supplier license;

9.1.c To the extent known, the initiation of any investigation that could, or any action that does, result in the imposition of any civil, criminal, or administrative sanction or penalty upon a person who applies for or holds an occupational license;

9.1.d The filing of any criminal, civil, or administrative complaint against a holding company or affiliate that has control of the applicant or holder of the casino license or a supplier license that relates to the eligibility and suitability of the applicant or licensee to hold the casino license or a supplier license in West Virginia under the Act and this rule;

9.1.e The receipt of a *subpoena* that requires testimony by the person applying for or holding the casino license or a supplier license, or by a key person, holding company or affiliate in control of the person applying for or holding the casino license or a supplier license, that relates to the gaming or casino operations or business practices of the applicant or licensee in West Virginia or any other jurisdiction;

9.1.f The receipt of a complaint or other notice filed with a public body regarding a delinquency in the payment of, or a dispute over the filings concerning the payment of, a tax required under federal law or under West Virginia state or local law, including all of the following information:

9.1.f.1 The tax amount;

9.1.f.2 The type of tax;

9.1.f.3 The taxing agency; and

9.1.f.4 The time periods involved.

9.1.g A bankruptcy, receivership, or debt adjustment initiated by or against the person applying for or holding the casino license or a supplier license or an officer, director, or the immediate parent company who is in control of the person applying for or holding the casino license or a supplier license.

9.1.h A compliance review conducted by the Internal Revenue Service in accordance with title 31 of the United States Code, 31 U.S.C. § 5311 et seq., relating to the person applying for or holding the casino license or a supplier license, an officer, a director, a holding company, or an affiliate that is in control of the person applying for or holding the casino

license or a supplier license. The person applying for or holding the casino license or a supplier license shall provide the Commission with a copy of the compliance review report or its equivalent within 10 days of the receipt of the report;

9.1.i A violation of Commission-approved internal control procedures related to security or to the transfer, collection, distribution, or accounting of monies and a statement of the corrective action taken by the casino licensee with respect to the violations;

9.1.j A violation of an agreement with a governmental authority in West Virginia; or

9.1.k Any action, occurrence, or nonoccurrence for which the Commission has instructed the person applying for or holding casino license or a supplier license to provide notice.

**§179-8-10. Licensee's duty to disclose violation of licenses.**

A person who holds or applies for a license shall immediately notify the Commission, in writing, if the person becomes aware that a casino, supplier, occupational licensee or management services provider licensee is in violation of the Act or this rule.

**§179-8-11. Applicant's obligation to report certain events.**

Whenever this rule requires a licensee to provide notice to the Commission of a fact or occurrence, an applicant for a license shall provide a written notice to the Commission under the same circumstances that a licensee is required to provide notice, except to the extent that the Commission may waive the requirements.

**§179-8-12. Contents of notice and supplementation requirement.**

The written notices required under the Act and this rule shall provide the detail that is reasonably required to describe the reported event and shall be supplemented at the times, and in the detail, that the Commission requests.

**§179-8-13. Restricted transactions.**

A member of the Commission, the Director, an employee of the West Virginia Lottery or an immediate family member residing in their same household shall not hold or obtain a direct or indirect interest in a racetrack casino licensee, a licensed supplier or a licensed management services entity.

**§179-8-14. Restrictions on gift-giving.**

14.1 A licensee or an applicant for a license, or an affiliate, key person, or representative of a licensee or applicant for a license, shall not directly or indirectly give or offer to give any gift, gratuity or other thing of value to any of the following entities:

14.1.a A member of the Commission;

14.1.b The Director;

14.1.c An employee of the West Virginia Lottery Office;

14.1.d An immediate family member residing in the same household of any of the individuals listed in subdivisions (a) to (c) of this subsection; or

14.1.e Any other person whom the Commission determines is, or was in the past two years, able to significantly affect, influence, or control the entities listed in subdivisions (a) to (d) of this subsection by reason of business, financial, personal, or social association or relationship.

14.2 In construing the phrase "gift, gratuity or other thing of value" in subsection 15.1 of this rule, the definitions and exceptions in the State Ethics Act, specifically W.Va. Code §6B-1-3(k) and §6B-2-5(c), are also definitions and exceptions for this section 15.

**§179-8-15. Restrictions on the casino licensee interest in a supplier licensee.**

A casino licensee shall not own an interest of more than ten percent in a licensed supplier.

**§179-8-16. Review of information at licensee's or applicant's premises; costs.**

16.1 At the option of the Director, he or she may review, at the premises of the custodian of the information, any information that the Act, this rule or the Director requires from any of the following entities:

16.1.a A license applicant;

16.1.b A licensee;

16.1.c An affiliate of a license applicant or licensee; and

16.1.d A person who holds more than a five percent direct or indirect interest in an applicant or licensee.

**PART 3. LICENSES**

**§179-8-17. Applications.**

17.1 An application for a license under the Act and this rule is a request by the applicant seeking a revocable privilege. The Commission may grant a license if the applicant meets the licensing requirements of the Act and this rule.

17.2 An applicant for a license under the Act and this rule shall, at all times, have the burden of demonstrating to the Commission, by clear and convincing evidence, that the applicant is eligible, qualified, and suitable to be granted and retain the license for which application is made under the applicable licensing standards and requirements of the Act and this rule.

17.3 A license issued by the Commission under the Act or this rule is a revocable privilege granted by the Commission. A person who holds a license does not acquire, and shall not be considered to acquire, a vested property right or other right, in the license.

17.4 The Commission shall use reasonable efforts to avoid unnecessary publicity concerning information included in the applications and other documents that are or could reasonably be considered sensitive; however, an applicant or licensee shall accept any risk of adverse publicity, public notice, notoriety, embarrassment, criticism, financial loss, or other unfavorable or harmful consequences that may occur in connection with, or as a result of, the application and licensing process or the public disclosure of information submitted to the Commission with a license application or at the Commission's request under the Act and this rule.

17.5 An applicant or licensee may claim any privilege afforded by the Constitution or laws of the United States or of the state of West Virginia in refusing to answer questions or provide information requested by the Commission. A claim of privilege with respect to any testimony or evidence pertaining to the eligibility, qualifications, or suitability of an applicant or licensee to be granted or hold a license under the Act and this rule may constitute cause for denial, suspension, revocation or restriction of the license.

17.6 An applicant and licensee shall:

17.6.a Notify the Commission of a material change in the information submitted in the license application submitted by the applicant or licensee or a change in circumstance, that may render the applicant or licensee ineligible, unqualified, or unsuitable to hold the license under the licensing standards and requirements of the Act and this rule;

17.6.b Maintain the applicant's or licensee's eligibility, qualifications, and suitability to be issued and hold the license held or applied for under the Act and this rule; and

17.6.c Provide any information requested by the Commission relating to licensing or regulation; cooperate with the Commission in investigations, hearings, and enforcement and disciplinary actions; and comply with all conditions, restrictions, requirements, orders, and rulings of the Commission in accordance with the Act and this rule.

17.7 An applicant, licensee or person required to be qualified as part of an application for the issuance of, or a request for renewal of, a license shall furnish fingerprints for a national criminal

records check by the Criminal Identification Bureau of the West Virginia State Police and the Federal Bureau of Investigation. The fingerprints shall be furnished by all persons required to be named in the application and shall be accompanied by a signed authorization for the release of information by the Criminal Investigation Bureau and the Federal Bureau of Investigation.

**§179-8-18. Classification of licenses.**

18.1 The Commission may classify an activity to be licensed in addition to, different from, or at a different level than, the following license classifications:

18.1.a Racetrack table games license/casino licenses;

18.1.b Supplier licenses;

18.1.c Occupational licenses. An individual who is employed by a casino licensee and whose work duties are directly related to, or involved in, the table games operations or are performed in a restricted area of the casino or in the table games area of the casino, or who is a table game operations manager, a general manager or department manager having oversight or operational responsibility for operation of the gaming facility, or an equivalent, shall hold a valid occupational license that is the level required for his or her position before the individual may perform any of the duties of his or her position. There are two different classes of occupational license, as follows:

18.1.c.1 Level 1 licenses for policy-making positions; and

18.1.c.2 Level 2 licenses for other positions; and

18.1.d Management services license.

**§179-8-19. Fees, fines, charges, and assessments.**

19.1 All fees, fines, charges, and assessments provided for under the Act shall be submitted in a timely manner to the Commission in the form of a certified check, a cashier's check, a money order or the casino licensee's business check made payable to: "West Virginia Lottery," or in the form of an electronic funds transfer, or by another method of payment that is acceptable to the Commission.

19.2 The license application fee shall be used by the Commission in part or in full to conduct an appropriate background investigation of the applicant as prescribed by the Commission, the Act, and this rule. The Commission shall not refund any portion of a remitted license application fee. An applicant, or the casino licensee in the applicant's behalf, shall submit the following nonrefundable initial license application fees to the Commission, together with the required application form or forms, for the corresponding license classification to which the fees relate:

19.2.a The racetrack table games/casino license: \$1,500,000.00;

- 19.2.b Supplier license: \$100.00;
- 19.2.c Occupational license: \$100.00; and
- 19.2.d Management services license: \$100.00.

19.3 The following license annual renewal fees shall be submitted to the Commission by the licensee for each subsequent renewal of the license under the Act and this rule:

- 19.3.a Racetrack table games license: \$2,500,000.00;
- 19.3.b Supplier license: \$100.00;
- 19.3.c Occupational license: \$100.00; and
- 19.3.d Management services license: \$100.00.

19.4 A supplier license and a management services license each expires at the end of the twelfth month following its initial effective date. For example, if one of these licenses was issued on the fifteenth day of May in one year, it must be renewed before the first day of June in the following year.

**§179-8-20. Persons required to qualify for issuance and renewal of gaming facility and supplier licenses.**

20.1 The Commission shall not issue or renew the license of a casino, supplier or management services provider unless the individual qualifications of every person required by the Act and this rule to qualify, as part of the application or request for the issuance or renewal of the license, shall have first been determined by the Commission eligible, qualified, and suitable in accordance with the relevant licensing standards set forth in the Act and this rule.

20.2 The following persons are required to qualify as part of the application for the issuance, or request for renewal, of the casino license or a supplier license:

20.2.a If the person who makes application for the license of a casino, supplier or management services provider is a person whose stock, equity interest, or ownership interest is publicly traded and regulated by the Securities and Exchange Commission, each of the applicant's key persons;

20.2.b If the person who makes application for the license of a casino, supplier or management services provider is not a person whose stock is publicly traded and regulated by the Securities and Exchange Commission, each of the applicant's key persons and each person, other than a publicly traded corporation and its five percent or less shareholders, that has a combined direct, indirect, or attributed interest of five percent or more in the applicant; and

20.2.c A person who is required to apply for the license of a casino, supplier or management services provider the casino license or a supplier license under the Act and this rule.

20.3 The Commission may at any time require a person that applies for or holds the casino license or a supplier license to establish the qualifications of any other affiliate, investor, creditor, employee, agent, or representative of the applicant or licensee or any other person that is connected, related, or associated with the applicant whom the Commission determines must be qualified under the Act and this rule.

20.4 A person required to qualify as part of the application or request for issuance or renewal of the casino license or a supplier license shall complete and file, with the Commission, an application or annual renewal report and the required disclosure forms in the manner and form prescribed by the Commission.

20.5 A casino licensee and a person who applies for or holds a supplier license shall ensure that all persons who are required by the Act and this rule to establish their qualifications as part of the applicant's application for the issuance, or the licensee's maintenance or renewal, of the casino license or a supplier license have filed, with the Commission, all required applications, reports, and disclosure forms in the manner and form prescribed by the Commission.

**§179-8-21. Casino licensing procedures.**

21.1 When the Commission receives a license application from a pari-mutuel racetrack that holds a racetrack video lottery license, together with a certified copy of the county commission's canvass of votes showing that the pari-mutuel racetrack is authorized by the county's voters to hold a license under the Act, and also upon the tendering of an electronic funds transfer to the Commission in the amount of one million five hundred thousand dollars, the Commission shall immediately issue the requested license to the racetrack.

21.2 Whenever a casino licensee renews its privilege to operate table games and racetrack video lottery games, it shall do so in a process that combines the requirements W.Va. Code §29-22C-1 et seq. and W.Va. Code §29-22A-1 et seq.

21.3 The license issued under subsections 22.1 and 22.2 of this rule shall be a casino license and shall signify that the Commission and the county's voters have approved the licensee to conduct both table gaming under W.Va. Code §29-22C-1 et seq. and racetrack video lottery gaming under W.Va. Code §29-22A-1 et seq.

**§179-8-22. Casino license application forms; amendments to application forms and documents.**

22.1 A person applying for the racetrack table games license and a person required to be qualified as part of the application may be required to complete and submit an initial application and disclosure form or forms in the manner and form prescribed by the Commission. In this

case, an applicant shall make the application and disclosure form or forms under oath on forms provided by the Commission.

22.2 A casino licensee is under a continuing duty to disclose any substantive changes in the information or documentation provided in or with the application, renewal, and disclosure forms submitted to the Commission. A casino licensee shall submit an amendment to its application if it knows or should have known that there has been a change in any of the following:

22.2.a A change of the applicant's key persons or the key persons of its holding companies or affiliates that have control of the applicant;

22.2.b A change in the type of business organization or entity;

22.2.c A change of more than five percentage points in capitalization or debt to equity ratio;

22.2.d A change of debt holders;

22.2.e A change of investors or stockholders unless the licensee is a publicly traded company; or

22.2.f A change of the source of funds.

**§179-8-23. Persons who have control of a licensee or applicant.**

23.1 The casino licensee shall require each person who has control of the licensee to be qualified as part of the application and or annual renewal to submit all of the information and documentation required by the Commission. Persons who are considered to have control of an applicant including:

23.1.a Each person associated with a corporate applicant or the immediate parent company of the applicant, but not including a bank or other licensed lending institution which holds a mortgage or other lien acquired in the ordinary course of business, who has the ability to control the activities of the corporate applicant or elect a majority of the board of directors of that corporation;

23.1.b Each person associated with a non-corporate applicant who directly or indirectly holds any beneficial or proprietary interest in the applicant or who the Commission determines to have the ability to control the applicant; and

23.1.c Key personnel of an applicant, including any executive, employee or agent, having the power to exercise significant influence over decisions concerning any part of the applicant's business operation.

**§179-8-24. Production of information required by the Commission.**

24.1 The Commission may require the production of other information and documentation to establish and determine the identity, eligibility, suitability, and qualification of the applicant or any other person required to be qualified, as part of the application, as a financial source under the Act or this rule.

24.2 The Commission may require the production of other information and documentation to establish and determine the financial stability, integrity, and responsibility of the person applying for the casino license and a holding company, affiliate, or intermediary company that is required to be qualified as part of the application under the Act and this rule and to establish and determine the integrity of the applicant's financial sources and adequacy of the applicant's financial resources to develop, construct, renovate, maintain, and operate the casino in accordance with the requirements of the Act and this rule. The information shall include, without limitation, a description of the capitalization for the proposed casino and the amount and source of all debt and equity involved in the capitalization for the casino.

24.3 The Commission may require the production of other information and documentation to establish and determine sufficient business ability on the part of the person applying for the casino license and the applicant's key persons to manage properly and operate the proposed casino in a successful and efficient manner and in accordance with the requirements of its certified development agreement and the Act and this rule.

24.4 The Commission may require the production of other information and documentation concerning the proposed table gaming locations within the racetrack including, without limitation, floor plans showing the location of each gaming point and device, and the location and coverage of all closed circuit television cameras.

24.5 The Commission may require the production of information and documentation concerning the organizational and operational plans for the casino's operation, including, without limitation, the recruitment, employment, supervision, and training of employees, management contracts, and leases.

24.6 The Commission may require the production of other information and documentation concerning the applicant's construction or renovation program for the applicant's casino, infrastructure, and support facilities including without limitation the estimated construction or renovation time and anticipated date of opening of the room or addition.

24.7 The Commission may require the production of other information and documentation concerning the applicant's plans for providing food and beverage and other concessions in the gaming areas, the status of all relevant required governmental and regulatory permits and approvals, and any conditions of all relevant required governmental and regulatory permits and approvals.

24.8 The Commission may require the production of the names, business addresses, telephone numbers, and principal contact persons of the applicant's identified suppliers of gaming-related equipment, goods, and services used in the gaming.

24.9 The Commission may require the production of information and documentation concerning the applicant's plans and procedures for extending credit for gaming and the collection of gaming-related debts.

24.10 The Commission may require the production of information and documentation concerning the applicant's plans and procedures for player tracking or casino management computer systems.

24.11 The Commission may require the production of information and documentation concerning any agreements, covenants, or options by the person applying for the casino license or the key persons of the applicant or any holding company or affiliate that has control of the applicant to lease or purchase the actual or proposed site of the casino.

24.12 The Commission may require the production of information and documentation regarding the types of insurance the applicant has or will obtain.

**§179-8-25. Confidential information in an application.**

25.1 An applicant shall submit information or documentation required by the Commission which is exempt from public disclosure under the *West Virginia Freedom of Information Act*, W.Va. Code §29B-1-4, or which the applicant or filer wishes to be treated as confidential as a separate part of the application under a cover clearly labeled "Confidential Information." An applicant shall submit the information or documentation in the manner and form prescribed by the Commission;

25.2 An applicant shall produce all required written waivers, assurances, releases and affidavits, which shall be submitted in the manner and form prescribed by the Commission;

25.3 An applicant shall supply to the Commission a statement listing the name, position or title, and business address and telephone number of each individual who completed or prepared any part of the application for the applicant; and

25.4 An applicant shall supply any other information or documentation that the Commission may consider material and necessary to establish the identification, eligibility, suitability, and qualification of the applicant or any other person required to be qualified or licensed as part of the application under the licensing standards and requirements of the Act and this rule.

**§179-8-26. Issuance of a racetrack table games license.**

26.1 After the issuance of a casino license as provided in section twenty-two of this rule, the Director may conduct a thorough review of the application submitted by the applicant, of the

background investigation of persons involved with the applicant and the fiscal and physical qualifications of the applicant and its facilities, and report to the Commission, in writing, whether the applicant has satisfactorily complied with the conditions and requirements of the Commission, the Act, and this rule for granting and issuing a casino license to the applicant. The Director shall ensure that a copy of his or her written report to the Commission is served on the applicant.

26.2 Upon receipt of the Director's report, the Commission shall docket the issue for its next regular or special meeting for the purposes of taking further evidence and rendering its final decision on the application.

26.3 The Commission shall place restrictions and conditions on the casino license, including, but not limited to, all of the following:

26.3.a The licensee shall maintain its required bond in accordance with the Act;

26.3.b The licensee's table game operations shall undergo, and successfully complete, a sufficient number and type of practice gaming operations to ensure that the gaming operation is conducted in compliance with the Act and this rule;

26.3.c The licensee shall satisfactorily complete or comply with any incomplete or non-complying aspects of its casino, support facilities, and table gaming operations within specified time frames established by the Commission.

**§179-8-27. Payment of the annual license renewal fee.**

27.1 The licensee shall pay the annual license renewal fee of \$2,500,000 by electronic funds transfer. The licensee's fee payment must be received by the West Virginia Lottery on or before June 30 of each year.

27.2 The licensee shall submit to the Commission a renewal application in the form that the Commission requires accompanied by satisfactory evidence of compliance with any additional requirements set by the Commission for license renewal.

27.3 The licensee shall submit to the Commission evidence satisfactory to the Commission of the licensee's compliance with the plan described in W.Va. Code §29-22C-8(g)(3) and subsection 2.59 of this rule to operate a hotel with significant amenities on the racetrack property, or progress toward constructing a hotel.

27.4 The Commission shall renew the license if the licensee meets the requirements of the Act and this rule.

**§179-8-28. The licensee's duty to disclose material changes.**

28.1 Issuance of the license does not create a property right. Issuance of the license instead gives to the holder a revocable privilege granted by the State of West Virginia conditioned upon the holder's continuing eligibility, qualifications, and suitability to hold the license under the Act and this rule.

28.2 A licensee has a continuing duty to notify promptly the Commission, in writing, without undue delay, of any material change in the information provided in its application or renewal report or reports and any other change in circumstances reasonably related to its eligibility, qualifications, and suitability to be issued, or continue holding, a casino license under the licensing standards, criteria, and requirements of the Act and this rule.

**§179-8-19. Required notification of anticipated or actual changes in directors, partners, and officers of the licensee and its immediate parent company, if any.**

29.1 A person that applies for or holds a racetrack table games license and the applicant's immediate parent company, if any, shall notify the Commission, in writing, as soon as is practicable, of the appointment, nomination, election, resignation, incapacitation, or death of any member of, or partner in, its board of directors or partnership or of any officer or key person who is directly involved in the management or conduct of gaming operations in West Virginia.

29.2 In the event that the applicant or licensee or any controlling person of the applicant or licensee is a publicly traded corporation, then information otherwise required to be furnished by the license with respect to stockholders, directors and executive officers of the publicly traded corporation shall be limited to information concerning only those executive officers of the publicly traded corporation whose ongoing and regular responsibilities relate or are expected to relate directly to the operation or oversight of the gaming facility.

**§179-8-30. Notification of new financial sources required.**

30.1 An applicant or a racetrack casino licensee, or any holding company, affiliate, or person who has control of a person that applies for or holds a casino license shall notify the Commission, in writing, as soon as practicable, if it intends to enter into a transaction related in any way to the development and operation of its West Virginia casino that may result in any new financial backers, investors, mortgagees, bondholders, or holders of indentures, notes, or other evidences of indebtedness of the applicant or licensee.

30.2 In the event that the applicant or licensee or any controlling person of the applicant or licensee is a publicly traded corporation, then information otherwise required to be furnished by the license with respect to stockholders, directors and executive officers of the publicly traded corporation shall be limited to information concerning only those executive officers of the publicly traced corporation whose ongoing and regular responsibilities relate or are expected to relate directly to the operation or oversight of the casino.

**§179-8-31. Notification by publicly traded applicants, licensees, or holding companies required.**

31.1 A publicly traded company that applies for or holds a casino license or a publicly traded holding company or affiliate that has control of a racetrack table games license applicant or licensee shall notify the Commission, as soon as practicable after it becomes aware that, with regard to the publicly traded company, any person or individual has beneficially acquired any of the following:

31.1.a The ability to control the publicly traded applicant or licensee or the publicly traded holding company or affiliate that has control of the license applicant or licensee; or

31.1.b The ability to elect one or more directors of the publicly traded applicant or licensee or of the publicly traded holding company or affiliate that has control of the license applicant or licensee. To the extent known by the applicant or licensee, the required notification shall include, without limitation, the name, business address, phone number, and other personal identification information for each person or individual.

31.2 If a publicly traded casino licensee or publicly traded holding company either files or is served with any schedule 13D, 13G, or 13F filing under the Securities Exchange Act of 1934, copies of the filing shall be submitted to the Commission by the publicly traded license applicant, licensee, or holding company within ten business days after receipt or filing.

**§179-8-32. Qualification of new directors, officers, or other key persons.**

An individual required to be qualified or licensed under the Act or this rule by virtue of his or her position with a West Virginia licensee shall not perform any duties or exercise any powers of the position related to West Virginia casino operations until he or she has been determined to be qualified or otherwise authorized by the Commission, under the Act and this rule.

**§179-8-33. Qualification of new directors and officers of holding company.**

A proposed new director, partner, officer, or key person required to be qualified or licensed under the Act or this rule by virtue of his or her position the immediate parent company who has control of a West Virginia license applicant or licensee shall not perform any duties or exercise any powers of the position related to West Virginia casino operations until he or she has been determined to be qualified or otherwise authorized by the Commission, under the Act and this rule.

**§179-8-34. Supplier license required to provide table games-related devices, supplies and/or services.**

34.1 When a person will supply or provide a casino with gaming devices, gaming supplies or services that directly affect the play and results of table games authorized, conducted, and played

under the Act and this rule, the person shall hold a supplier's license. In determining whether a person is qualified to be licensed as a supplier under this rule, the Commission shall consider, without limitation, whether the person meets one or more of the following criteria:

34.1.a The person manufactures, supplies, or distributes devices, machines, equipment, items or articles that:

34.1.a.1 Are specifically designed for use in the conduct of table gaming;

34.1.a.2 Are needed to conduct table gaming;

34.1.a.3 Have the capacity to affect the outcome of the play of a table game;

or

34.1.a.4 Have the capacity to affect the calculation, storage, collection, or control of gross receipts; and

34.1.b The person provides other goods or services determined by the Commission to be used in, or incident to, the operation of table games and the person must be licensed as a supplier to protect the public and enhance the credibility and integrity of gaming in West Virginia;

34.2 The following persons shall be licensed under the criteria specified in subdivisions 35.1a through 35.1.e of this rule:

34.2.a A manufacturer, supplier, distributor, servicer, or repairer of any of the following:

34.2.a.1 Cards;

34.2.a.2 Dice;

34.2.a.3 Gaming chips;

34.2.a.4 Gaming plaques;

34.2.a.5 Tokens;

34.2.a.6 Dealing shoes;

34.2.a.7 Drop boxes;

34.2.a.8 Computerized gaming monitoring systems; and

34.2.a.9 Other devices, machines, equipment, items, or articles used in table gaming.

**§179-8-35. Supplier's license application.**

35.1 To qualify for a license, the applicant shall meet the requirements of this rule. Each applicant who is an individual who is a controlling person of an applicant that is not an individual shall be of good moral character and reputation, and shall have the necessary experience and financial ability to successfully carry out the functions of a gaming facility supplier.

35.2 An applicant for a license to supply gaming devices, equipment and supplies to a gaming facility shall demonstrate that the gaming devices, equipment and supplies that the applicant plans to sell or lease to the licensed casino conform or will conform to standards established by rules of the Commission and applicable state law.

35.3 A person applying for a supplier's license and a person required to be qualified as part of the application shall complete and submit application and disclosure forms in the manner and form prescribed by the Commission. The application and disclosure forms shall be made under oath on prescribed forms provided by the Commission.

35.4 Application procedures for a supplier's license are as follows:

35.4.a Upon application, an applicant shall assume and accept, in writing, under oath, all risk of adverse publicity, notoriety, embarrassment, criticism, financial loss, or other unfavorable or harmful consequences that may occur in connection with the application process or the public disclosure of information submitted with the application;

35.4.b Upon application, an applicant shall also expressly waive and give up, in writing, under oath, all claims for damages that may result from the application and licensing process;

35.4.c Upon application, an applicant shall also consent, in writing, under oath, to being subject to the inspections, investigations, audits, searches, and seizures for the duration of the supplier's license for which application is made, if the license is issued;

35.4.d Upon application, an applicant shall also authorize and consent, in writing, under oath, to release and disclose to the Commission and its authorized representatives and agents all otherwise confidential records of the applicant that the Commission requests from the applicant or from third parties, including, without limitation, tax records and financial records held by a federal, state, or local governmental agency, a credit bureau, or a financial institution while applying for, or while holding, a supplier's license under the Act and this rule;

35.4.e The Commission shall use the information provided in the prescribed application and disclosure form as a basis for an appropriate background investigation for

evaluating and determining the eligibility, qualifications, and suitability of the applicant to receive the license for which application is made. The Commission shall make the evaluation and determination under the licensing standards and criteria provided in the Act and rules of the Commission. A misrepresentation or omission in the application is cause for denial, suspension, restriction, or revocation of a license by the Commission;

35.4.f A person applying for a supplier license shall provide the name, address, and telephone number of a representative to act as a liaison to the Commission's background investigators, and shall facilitate, assist, and cooperate with the Commission in its conduct of background investigations under the Act and this rule;

35.4.g The Commission shall not issue a supplier's license or renewal license unless the person applying for the license, and each person required to be qualified as part of the application for issuance or renewal of the license, has completed and filed with the Commission all required applications, license renewal reports and disclosure forms in the manner and form prescribed by the Commission, has provided all information, documentation, assurances, waivers, and releases, and has paid the fees required by the Act and this rule;

35.4.h An applicant shall file all required application forms before the expiration of deadlines established and published by the Commission;

35.4.i An applicant is under a continuing duty to disclose any material changes in the information or documentation provided in or with the application, renewal, and disclosure forms submitted to the Commission;

35.4.j A person applying for a supplier license shall request amendment of its application when it knows, or should have known, that there has been a change in any of the following:

35.4.j.1 The applicant's key persons or the key persons of any holding company or affiliate that has control of the applicant;

35.4.j.2 The type of business organization or entity;

35.4.j.3 A holding company or affiliate;

35.4.j.4 The investors or debt holders, or both; or

35.4.j.5 A source of funds.

35.4.k A publicly traded corporation shall be considered to have complied with this rule if it has complied with the reporting requirements provided by section twelve of the Securities and Exchange Act of 1934, as amended (15 U.S.C. §78);

35.4.l A supplier's license application may be withdrawn upon written notice to the Commission. If the statutory license fee has been paid, the Commission may refund the fee to the applicant if no processing or reviews of the application have taken place; and

35.4.m The Commission may allow information, documents, or other materials submitted by an applicant in a withdrawn application to be incorporated by reference into a subsequent application.

35.5 A supplier's license application shall require that the person applying for the license and a person required to be qualified as part of the application submit all of the following information and documentation on forms prescribed by the Commission:

35.5.a The name of the person applying for a supplier license and any holding company or affiliate that has control of the applicant and the person's, company's, or affiliate's respective business address, phone number, federal identification number, and West Virginia taxpayer identification number;

35.5.b To the extent known and identified by the applicant, the identity and home and business addresses and phone numbers of the key persons of the person applying for a supplier license, of a holding company or affiliate that has control of the applicant, and of any other person required to be qualified as part of the applicant's application under the Act and this rule; and

35.5.c Applications and disclosure forms completed by the person applying for a supplier license and by the key persons of the applicant, a holding company or affiliate that has control of the applicant, and any other identified person required to be qualified as part of that applicant's application. The applications and disclosure forms shall contain all information and documentation that the Commission requires to determine the eligibility, qualifications, and suitability of each person under W.Va. Code §29-22C-13, specifically including photographs and fingerprints of each individual person required to be qualified as part of the application. The photographs and fingerprints shall be taken at a time and place designated by the Director. Photos that have been taken within ninety days of submitting an application may be sent with the applicable disclosure form to fulfill the photo requirement. Each applicant shall submit the following kinds of information:

35.5.c.1 All of the following information for each natural person required to be qualified as part of the application:

- 35.5.c.1.A Name;
- 35.5.c.1.B Aliases and nicknames;
- 35.5.c.1.C Date of birth;
- 35.5.c.1.D Physical description;

35.5.c.1.E      Citizenship;

35.5.c.1.F      Marital history and family data; and

35.5.c.1.G      Home and business addresses and phone numbers; and

35.5.c.2          Personal, business, and financial information relevant to the moral character, reputation, integrity, business probity, experience and ability, and financial experience, stability, and responsibility of the person applying for a supplier license and each person required to be qualified as part of the application;

35.5.c.3          A listing of the jurisdictions in which the person applying for a supplier license and each person required to be qualified as part of that application holds or has held a supplier license or other gaming-related license;

35.5.c.4          Information regarding any previous civil litigation that involves the business practices of, or criminal arrests, charges, or dispositions involving, the person applying for a supplier license and each person required to be qualified as part of the application;

35.5.c.5          Information regarding the incorporation, partnership, or other business structure and organization of the person applying for the supplier license and the applicant's key persons and any holding company or affiliate that has control of the applicant;

35.5.c.6          Information regarding the equipment, goods, and services that the person applying for a supplier license will provide or supply to the casino licensee, including, without limitation, information regarding the knowledge, skill, education, training, and experience of the applicant and the managerial employees and sales and service representatives who will represent the applicant and conduct its business in West Virginia;

35.5.c.7          Information regarding any previous bankruptcy proceedings filed by or against the person applying for a supplier license or any other person required to be qualified as part of the application;

35.5.c.8          Information regarding any previous formal legal proceedings to adjust, deter, suspend, or otherwise work out payment of any debt owed by the person applying for a supplier license or any other person required to be qualified as part of the application;

35.5.c.9          Information regarding any present or previous tax delinquency or complaints, notices, or liens filed against the person applying for a supplier license, or any other person required to be qualified as part of the application, for nonpayment of local, state, or federal taxes and fees;

35.5.c.10        Information regarding any previous violation of, or noncompliance with, supplier licensing or regulatory requirements in West Virginia or any other jurisdiction by

the person applying for a supplier license or any other person required to be qualified as part of the application;

35.5.c.11 Information regarding any previous violation of, or noncompliance with, any other licensing and regulatory requirements involving other regulated gaming in West Virginia or any other jurisdiction by the person applying for a supplier license or any other person required to be qualified as part of the application;

35.5.c.12 Information regarding whether the person applying for a supplier license or any other person required to be qualified as part of the application has ever held a supplier license or other gaming-related license that was restricted, suspended, or revoked in West Virginia or any other jurisdiction; and

35.5.c.13 Other information which is required by the Commission regarding the person applying for a supplier license and any other person required to be qualified as part of the application and which is considered necessary by the Commission to protect the public and enhance the credibility and integrity of gaming in West Virginia and to properly evaluate the applicant's eligibility, qualifications, and suitability to be licensed as a supplier under the Act and this rule.

**§179-8-36. Supplier's license issuance; standards and criteria.**

36.1 A person that is required to be licensed as a supplier under the Act and this rule shall, before issuance of a supplier's license, produce information, documentation, and assurances in its application to establish all of the following by clear and convincing evidence:

36.1.a The applicant and all other persons required to be qualified as part of the application are eligible, qualified, and suitable for licensure under the licensing standards, criteria, and requirements set forth in section twelve of the Act and this rule;

36.1.b The financial stability and responsibility of the applicant;

36.1.c The applicant and all other persons required to be qualified as part of the application demonstrate a level of skill, experience, knowledge, and ability necessary to supply the equipment, goods, or services that the applicant seeks permission to provide to the casino licensee and racetrack table games license applicants in compliance with the Act and this rule;

36.1.d The applicant and all other persons required to be qualified as part of the application have not been convicted of any disqualifying crime listed in section fifteen of the Act;

36.1.e The applicant and all other persons required to be qualified as part of the application do not appear on the exclusion list of any jurisdiction; and

36.1.f The applicant and all other persons required to be qualified as part of the application are in substantial compliance with all local and state tax laws.

**§179-8-37. Supplier license application; Commission action.**

37.1 The Commission shall take the following action on an application for a supplier license:

37.1.a After the completion of the background investigation, the Director shall report to the Commission, in writing, regarding the staff's background investigation of the applicant. Upon receipt of the Director's report, the Commission shall grant or deny the application.

37.1.b If the Commission grants the application, it shall direct the Director to issue a supplier license;

37.1.c If the Commission denies the application, then it shall instruct the Director to issue the applicant a notice of denial by certified mail; and

37.1.d If the applicant fails to request a hearing by certified mail, within ten days of the applicant's receipt of the notice of denial, to contest the denial, the notice of denial becomes the final order of the Commission.

**§179-8-38. Denied license; reapplication.**

38.1 A person whose application for a supplier license has been denied may not reapply for a supplier license for a period of one year from the date on which the Commission voted to deny the application, unless the Commission allows reapplication at an earlier date.

38.2 A person whose application for a supplier license was denied may seek leave of the Commission to reapply by addressing the request to the Commission. The Commission may require the applicant to present oral or written argument outlining why an exception should be made.

**§179-8-39. License required to provide management services.**

39.1 When a person that is not a natural person will provide a casino with substantial management services, such as managing the day-to-day operation of table games or all casino games, the person shall hold a management services provider license.

39.2 To qualify for a license, the applicant shall meet the requirements of this rule. Each controlling natural person of an applicant shall be of good moral character and reputation, and shall have the necessary experience and financial ability to successfully carry out the functions of a management services provider.

39.3 A person applying for a management services provider's license and a person required to be qualified as part of the application shall complete and submit application and disclosure forms in the manner and form prescribed by the Commission. The application and disclosure forms shall be made under oath on prescribed forms provided by the Commission.

39.4 The application procedures for a management services provider's license are as follows:

39.4.a Upon application, an applicant shall assume and accept, in writing, under oath, all risk of adverse publicity, notoriety, embarrassment, criticism, financial loss, or other unfavorable or harmful consequences that may occur in connection with the application process or the public disclosure of information submitted with the application;

39.4.b Upon application, an applicant shall also expressly waive and give up, in writing, under oath, all claims for damages that may result from the application and licensing process;

39.4.c Upon application, an applicant shall also consent, in writing, under oath, to being subject to inspections, investigations, audits, searches, and seizures for the duration of the management services provider's license for which application is made, if the license is issued;

39.4.d Upon application, an applicant shall also authorize and consent, in writing, under oath, to release and disclose to the Commission and its authorized representatives and agents all otherwise confidential records of the applicant that the Commission requests from the applicant or from third parties, including, without limitation, tax records and financial records held by a federal, state, or local governmental agency, a credit bureau, or a financial institution while applying for, or while holding, a management services provider's license under the Act and this rule;

39.4.e The Commission shall use the information provided in the prescribed application and disclosure form as a basis for an appropriate background investigation for evaluating and determining the eligibility, qualifications, and suitability of the applicant to receive the license for which application is made. The Commission shall make the evaluation and determination under the licensing standards and criteria provided in the Act and rules of the Commission. A misrepresentation or omission in the application is cause for denial, suspension, restriction, or revocation of a license by the Commission;

39.4.f A person applying for a management services provider's license shall provide the name, address, and telephone number of a representative to act as a liaison to the Commission's background investigators, and shall facilitate, assist, and cooperate with the Commission in its conduct of background investigations under the Act and this rule;

39.4.g The Commission shall not issue a management services provider's license or renewal license unless the person applying for the license, and each person required to be qualified as part of the application for issuance or renewal of the license, has completed and filed with the Commission all required applications, license renewal reports and disclosure forms in

the manner and form prescribed by the Commission, has provided all information, documentation, assurances, waivers, and releases, and has paid the fees required by the Act and this rule;

39.4.h An applicant shall file all required application forms before the expiration of deadlines established and published by the Commission;

39.4.i An applicant is under a continuing duty to disclose any material changes in the information or documentation provided in or with the application, renewal, and disclosure forms submitted to the Commission;

39.4.j A person applying for a management services provider's license shall request amendment of its application when it knows, or should have known, that there has been a change in any of the following:

39.4.j.1 The applicant's key persons or the key persons of any holding company or affiliate that has control of the applicant;

39.4.j.2 The type of business organization or entity;

39.4.j.3 A holding company or affiliate;

39.4.j.4 The investors or debt holders, or both; or

39.4.j.5 A source of funds.

39.4.k A publicly traded corporation shall be considered to have complied with this rule if it has complied with the reporting requirements provided by section twelve of the Securities and Exchange Act of 1934, as amended (15 U.S.C. §78);

39.4.l A management services provider's license application may be withdrawn upon written notice to the Commission before Commission action on the application if all background investigation costs of the Commission have been paid in full by the person applying for a management services provider's license; and

39.4.m The Commission may allow information, documents, or other materials submitted by an applicant in a withdrawn application to be incorporated by reference into a subsequent application;

39.5 A management services provider's license application shall require that the person applying for the license and a person required to qualify as part of the application submit all of the following information and documentation on forms prescribed by the Commission:

39.5.a The name of the person applying for a management services provider's license and any holding company or affiliate that has control of the applicant and the person's,

company's, or affiliate's respective business address, phone number, federal identification number, and West Virginia taxpayer identification number;

39.5.b To the extent known and identified by the applicant, the identity and home and business addresses and phone numbers of the key persons of the person applying for a management services provider's license, of a holding company or affiliate that has control of the applicant, and of any other person required to be qualified as part of the applicant's application under the Act and this rule; and

39.5.c Applications and disclosure forms completed by the person applying for a management services provider's license and by the key persons of the applicant, a holding company or affiliate that has control of the applicant, and any other identified person required to be qualified as part of that applicant's application. The applications and disclosure forms shall contain all information and documentation that the Commission requires to determine the eligibility, qualifications, and suitability of each person under section fifteen of the Act, specifically including photographs and fingerprints of each individual person required to be qualified as part of the application. The photographs and fingerprints shall be taken at a time and place designated by the Director. Photos that have been taken within ninety days of submitting an application may be sent with the applicable disclosure form to fulfill the photo requirement. Each applicant shall submit the following kinds of information:

39.5.c.1 All of the following information for each natural person required to be qualified as part of the application:

- 39.5.c.1.A Name;
- 39.5.c.1.B Aliases and nicknames;
- 39.5.c.1.C Date of birth;
- 39.5.c.1.D Physical description;
- 39.5.c.1.E Citizenship;
- 39.5.c.1.F Marital history and family data; and
- 39.5.c.1.G Home and business addresses and phone numbers; and

39.5.c.2 Personal, business, and financial information relevant to the moral character, reputation, integrity, business probity, experience and ability, and financial experience, stability, and responsibility of the person applying for a management services provider's license and each person required to be qualified as part of the application;

39.5.c.3 A listing of the jurisdictions in which the person applying for a management services provider's license and each person required to be qualified as part of that application holds or has held a management services provider's license or other gaming-related license;

39.5.c.4 Information regarding any previous civil litigation that involves the business practices of, or criminal arrests, charges, or dispositions involving, the person applying for a management services provider's license and each person required to be qualified as part of the application;

39.5.c.5 Information regarding the incorporation, partnership, or other business structure and organization of the person applying for the management services provider's license and the applicant's key persons and any holding company or affiliate that has control of the applicant;

39.5.c.6 Information regarding the services that the person applying for a management services provider's license will provide to the casino licensee, including, without limitation, information regarding the knowledge, skill, education, training, and experience of the applicant and the managerial employees who will represent the applicant and conduct its business in West Virginia;

39.5.c.7 Information regarding any previous bankruptcy proceedings filed by or against the person applying for a management services provider's license or any other person required to be qualified as part of the application;

39.5.c.8 Information regarding any previous formal legal proceedings to adjust, deter, suspend, or otherwise work out payment of any debt owed by the person applying for a management services provider's license or any other person required to be qualified as part of the application;

39.5.c.10 Information regarding any previous violation of, or noncompliance with, management services provider licensing or regulatory requirements in West Virginia or any other jurisdiction by the person applying for a management services provider's license or any other person required to be qualified as part of the application;

39.5.c.11 Information regarding any previous violation of, or noncompliance with, any other licensing and regulatory requirements involving other regulated gaming in West Virginia or any other jurisdiction by the person applying for a management services provider's license or any other person required to be qualified as part of the application;

39.5.c.12 Information regarding whether the person applying for a management services provider's license or any other person required to be qualified as part of the application has ever held a management services provider's license or other gaming-related license that was restricted, suspended, or revoked in West Virginia or any other jurisdiction; and

39.5.c.13 Other information which is required by the Commission regarding the person applying for a management services provider's license and any other person required to be qualified as part of the application and which is considered necessary by the Commission to protect the public and enhance the credibility and integrity of gaming in West Virginia and to properly evaluate the applicant's eligibility, qualifications, and suitability to be licensed as a management services provider under the Act and this rule.

**§179-8-40. Management services provider's license issuance; standards and criteria.**

40.1 A person that is required to be licensed as a management services provider under the Act and this rule shall, before issuance of a management services provider's license, produce information, documentation, and assurances in its application to establish all of the following by clear and convincing evidence:

40.1.a The applicant and all other persons required to be qualified as part of the application are eligible, qualified, and suitable for licensure under the licensing standards, criteria, and requirements set forth in section fourteen of the Act and this rule;

40.1.b The financial stability and responsibility of the applicant;

40.1.c The applicant and all other persons required to be qualified as part of the application demonstrate a level of skill, experience, knowledge, and ability necessary to supply management services that the applicant seeks permission to provide to the casino licensee in compliance with the Act and this rule;

40.1.d The applicant and all other persons required to be qualified as part of the application have not been convicted of any disqualifying crime listed in section fifteen of the Act; and

40.1.e The applicant and all other persons required to be qualified as part of the application do not appear on the exclusion list of any jurisdiction.

**§179-8-41. Management services provider's license application; Commission action.**

41.1 The Commission shall take the following action on an application for a management services provider license:

41.1.a After the completion of the background investigation, the Director shall report to the Commission, in writing, regarding the staff's background investigation of the applicant. Upon receipt of the Director's report, the Commission shall grant or deny the application;

41.1.b If the Commission grants the application, it shall direct the Director to issue a management services provider's license;

41.1.c If the Commission denies the application, then it shall instruct the Director to issue the applicant a notice of denial by certified mail; and

41.1.d If the applicant fails to request a hearing by certified mail within ten days of the applicant's receipt of the notice of denial to contest the denial, the notice of denial becomes the final order of the Commission.

**§179-8-42. Denied license; reapplication.**

42.1 A person whose application for a management services provider license has been denied may not reapply for a management services provider license for a period of one year from the date on which the Commission voted to deny the application unless the Commission allows reapplication at an earlier date.

42.2 A person whose application for a management services provider license was denied may seek leave of the Commission to reapply by addressing the request to the Commission. The Commission may require the applicant to present oral or written argument outlining why an exception should be made.

**§179-8-43. Occupational license requirement; license classes; application; exemptions.**

43.1 A natural person employed by the racetrack casino licensee whose work duties are related to the table games operation shall hold an occupational license of the level required for the individual's position before the individual may perform any of the duties of his or her position.

43.2 This rule applies to both full-time and part-time employees.

43.3 The two different classes of occupational licenses that an employee may hold are as follows:

43.3.a Level 1, the highest level of occupational license; and

43.3.b Level 2.

43.4 An occupational licensee may perform any work duties or activities included within the level of occupational license held by the licensee and included in any lower level of occupational license.

43.5 The Commission shall not process an application for an occupational license unless the application includes a written statement from a casino licensee that the applicant has been or will be hired by the casino licensee, subject to satisfactory completion of a gaming audition after training, upon receiving the appropriate occupational license for which application is made.

43.6 The Commission may exempt any person from the occupational licensing requirements of this rule if the Commission determines that the person is regulated by another governmental agency or that licensing is not considered necessary to protect the public interest or accomplish the policies and purposes of the Act.

**§179-8-44. Occupational license, level 1.**

44.1 A natural person who will be employed by the casino in a position that includes any of the following responsibilities or authority, regardless of job title, shall hold, before employment, a current and valid level 1 occupational license or a valid temporary level 1 occupational license issued under this rule. A level 1 license is necessary for a person who:

- 44.1.a Functions as a casino manager;
- 44.1.b Functions as the table games operations manager;
- 44.1.c Functions as a casino shift manager;
- 44.1.d Functions as a pit manager;
- 44.1.e Manages surveillance operations;
- 44.1.f Functions as a cage manager;
- 44.1.g Manages the hard count room or soft count room;
- 44.1.h Functions as a table games financial controller;
- 44.1.i Manages personnel and human resource activities of the table games operation; or
- 44.1.j Manages the patron check collection unit.

**§179-8-45. Occupational license, level 2.**

45.1 A natural person who will be employed by the casino licensee shall hold, before employment, a current and valid level 2 occupational license unless required to hold a level 1 occupational license. A level 2 license is necessary for a person who:

- 45.1.a Functions as a dealer;
- 45.1.b Conducts surveillance investigations and operations;
- 45.1.c Processes coins, currency, gaming chips or cash equivalents;

45.1.d Provides physical security in the casino;

45.1.e Repairs table gaming equipment; or

45.1.f Is an employee of the table games operation whom the Commission considers necessary to be licensed to ensure compliance with the Act and this rule and to protect the public and ensure the credibility and integrity of gaming in the state.

**§179-8-46. Applications for occupational licenses.**

46.1 An applicant for a level-one occupational license shall complete and submit an application and personal disclosure form to the Commission. The applicant shall submit the application and disclosure form in the manner and form prescribed by the Commission at Lottery Headquarters or any other location specified by the Commission. The application and personal disclosure forms prescribed by the Commission may require the applicant to provide any of the following information and documents with respect to the applicant:

46.1.a The applicant's name, including any aliases or nicknames;

46.1.b The applicant's date of birth and a copy of his or her birth certificate;

46.1.c The applicant's physical description;

46.1.d The applicant's current address and residence history;

46.1.e The nature of the applicant's position with or interest in the casino;

46.1.f The applicant's current home and business or work telephone numbers;

46.1.g The employment history of the applicant;

46.1.h The convictions of the applicant for any crime involving gaming, theft, fraud or moral turpitude;

46.1.i The fingerprint record authorization for digital fingerprint recording by the Commission;

46.1.j Previous bankruptcies of the applicant and garnishments, attachments, or formal proceedings to adjust, defer, suspend, or otherwise work out the payment of a debt of the applicant;

46.1.k Whether the applicant has ever been bonded or been denied any type of bond;

46.1.l All required waivers and affidavits prescribed by the Commission; and

46.1.m Any other information or documents that the Commission considers necessary and relevant to determine the applicant's identity, eligibility, qualifications, and suitability for licensure under the Act or this rule.

46.2 An applicant for a level-two occupational license shall complete and submit one copy of an application to the Commission. The applicant shall submit the application in the manner and form prescribed by the Commission. The Commission may require the applicant to provide any of the following information and documents:

- 46.2.a The applicant's name, including any aliases or nicknames;
- 46.2.b The applicant's date of birth;
- 46.2.c The applicant's physical description;
- 46.2.d The applicant's current address and residence history;
- 46.2.e The applicant's employment history;
- 46.2.f The applicant's education and training;
- 46.2.g The convictions of the applicant for any crime involving gaming, theft, fraud or moral turpitude;
- 46.2.h Whether the applicant has ever been bonded or been denied any type of bond;
- 46.2.i The fingerprint record authorization for digital fingerprint recording by the Commission;
- 46.2.j All required waivers and affidavits prescribed by the Commission; and
- 46.2.k Any other information that the Commission considers necessary and relevant to determine the applicant's eligibility, qualifications, and suitability for licensure under the Act and this rule.

**§179-8-47. Occupational licensing procedures.**

47.1 An applicant for an occupational license shall submit, together with the required application fee, a completed application that has been endorsed by an authorized representative of the casino by whom the applicant will be employed if the applicant is licensed.

47.2 After the Commission has received the completed occupational license application, appropriate application fee, photograph, and fingerprints, the Commission shall review the applicant's application and conduct a criminal history check on the applicant.

47.3 If a preliminary review of the application and the criminal history check does not uncover or indicate any apparent deficiencies in the application or other circumstances that may require denial of the application under the licensing standards of the Act and this rule, then the Director may issue a temporary occupational license to the applicant. The temporary occupational license authorizes the applicant to perform the employment duties for which the license is sought, pending Commission action on the applicant's license application. A temporary license issued under this rule is valid for not more than ninety days, but may be extended upon expiration by the Director if the criteria in this subsection are satisfied.

47.4 The Director shall issue a temporary identification badge to the temporary occupational licensee. The color of the temporary identification badge shall be different from the occupational license identification badge that is given to an occupational licensee upon issuance of a full occupational license. The temporary identification badge shall contain and display information prescribed by the Commission.

47.5 Temporary occupational licensees shall wear and clearly display a legible name tag and shall have their temporary identification badge in their possession at all times during work hours at the casino.

47.6 A person shall pay a fee of \$10.00 to the Commission for any necessary replacement of a temporary identification badge.

47.7 A temporary identification badge shall not be transferred and shall be immediately returned to the Commission if the temporary licensee resigns or if his or her employment at the casino is terminated.

47.8 If, upon further investigation and review of the temporary licensee's application, the Director determines that the applicant is not eligible or suitable for licensure under the Act and this rule, then the Director may, upon written notice to the licensee and the licensee's employer, revoke the temporary license and order the immediate return of the temporary identification badge to the Commission.

47.9 If a temporary occupational license expires or is revoked, then the licensee shall not continue his or her employment and shall not perform the work duties for which the license is required.

47.10 If an applicant's temporary license expires or is revoked, the Director shall immediately forward the temporary licensee's application to the Commission for action together with a written report to the Commission recommending granting or denial of the application. The Director's report shall state the reasons for his or her recommendation for Commission action on the application.

47.11 Before issuance of an occupational license, an occupational license applicant shall have the burden of producing the information, documentation, and assurances in his or her application to establish, by clear and convincing evidence, that the applicant is eligible, qualified, and suitable to receive the occupational license for which application is made, under the licensing standards in the Act and this rule.

47.12 The applicant shall demonstrate to the Commission a level of skill, knowledge, and/or experience reasonably necessary to perform the job duties required for the occupational license for which application is made. However, an applicant may still be employed by the casino to perform the duties if the casino agrees to provide necessary training to the applicant.

47.13 An applicant is not eligible, qualified, or suitable for an occupational license if he or she:

47.13.a Has knowingly made a false statement of a material fact to the Commission;

47.13.b Has been suspended from operating a gaming game, gaming device or gaming operation in another jurisdiction by a board or other governmental authority of that jurisdiction having responsibility for the regulation of gaming or gaming activities;

47.13.c Has been convicted of an offense of moral turpitude, a gaming offense, a theft or fraud offense, or has otherwise demonstrated, either by a police record or other satisfactory evidence, a lack of respect for law and order; or

47.13.d Has failed to meet any monetary obligation in connection with a gaming facility or any other form of gaming.

47.14 Unless waived by the Commission, an applicant whose name appears on the exclusion list of any jurisdiction is not eligible, qualified, or suitable to be issued an occupational license.

47.15 An applicant shall also have good moral character, reputation, and integrity, and comply with any other licensing standard that the Commission considers necessary to ensure compliance with the Act and this rule and protect the public and the credibility and integrity of gaming in the state.

**§179-8-48. Commission action on occupational license applications.**

48.1 After the completion of the background investigation, the Director shall report to the Commission, in writing, regarding the staff's background investigation of the occupational license applicant. Upon receipt of the Director's report, the Commission shall grant or deny the application.

48.2 If the Commission grants the application, it shall direct the Director to issue an occupational license.

48.3 If the Commission denies the application, then it shall direct the Director to issue the applicant a notice of denial by certified mail. The notice of denial does not initially constitute a finding that the applicant is ineligible, unqualified, or unsuitable to be licensed. If the applicant fails to request a hearing in a timely manner, then the notice of denial becomes the final order of the Commission. For purposes of this section, "timely" means "within ten calendar days."

**§179-8-49. Requirements for occupational license identification badge.**

49.1 Upon a finding of suitability for licensure and payment of the appropriate license fee, the Commission shall issue an occupational license identification badge for the applicant. The license identification badge shall be in the form prescribed by the Commission.

49.2 The occupational license shall contain all of the following information:

49.2.a The occupational licensee's first name, last name, and job title;

49.2.b The occupational license number assigned by the Commission;

49.2.c The level of the occupational license;

49.2.d The signature of the Director of the West Virginia Lottery;

49.2.e The date that the occupational license was issued and the date that the occupational license expires; and

49.2.f Any other information prescribed by the Commission.

49.3 The casino shall maintain photocopies of the occupational license certificates for the respective occupational licensees it employs.

49.4 The occupational license remains the property of the Commission at all times. The occupational license may be revoked, suspended, canceled, or restricted by the Commission. The Commission may refuse to renew the license when it is reviewed under this rule.

49.5 Neither the occupational license nor the licensee identification badge shall be transferred to another person. If the occupational licensee resigns or the occupational licensee's employment is terminated, the occupational licensee shall return the license identification badge to the Commission.

49.6 The licensee identification badge shall be a card of a color designated by the Commission and meet the all of the following requirements:

49.6.a The front side of the occupational licensee's identification badge shall be a card bearing the name and logo of the West Virginia Lottery and display:

- 49.6.a.1 The applicant's photograph;
- 49.6.a.2 The applicant's first name and job title;
- 49.6.a.3 The occupational license number assigned by the Commission;
- 49.6.a.4 The level of the occupational license;
- 49.6.a.5 The signature of the Director of the West Virginia Lottery; and
- 49.6.a.6 The date the license identification badge and occupational license were issued and the date that the identification badge and occupational license will expire.

49.6.b The back side of the occupational license identification badge shall display:

- 49.6.b.1 The applicant's signature and the applicant's first and last name;
- 49.6.b.2 The applicant's date of birth; and
- 49.6.b.3 Any other information considered necessary by the Commission to identify the occupational licensee, the casino of employment, the appropriate level of occupational license, and any conditions or restrictions that have been placed on the occupational license;

49.7 The colors of the permanent licensee identification badges shall be different from the color of the temporary identification badge.

49.8 An occupational licensee shall wear and clearly display a legible name tag issued by the casino licensee and shall keep the state license identification badge in his or her possession while on duty as well as while off duty when in the table gaming and security monitoring areas of the casino.

49.9 An occupational licensee shall pay to the Commission a fee of \$10.00 for any necessary replacement of a licensee identification badge or the occupational license certificate. The Commission shall assess the fee each time an occupational licensee obtains a replacement identification badge or occupational license certificate.

**§179-8-50. Reapplication for denied license.**

50.1 A person whose application for an occupational license has been denied may not, without permission of the Commission, reapply for an occupational license of the same or higher level for a period of one year from the date on which the Commission voted to deny the application.

50.2 A person whose application for an occupational license was denied may seek leave of the Commission to reapply within the one year period by addressing the request to the Commission through the Director. The Commission may require the applicant to present oral or written argument to the Commission outlining why an exception should be made.

#### **PART 4. CONDUCT OF TABLE GAMING**

##### **§179-8-51. Rules of table games; purpose.**

51.1 A casino licensee shall submit its table game rules to the Commission for approval to ensure all of the following:

51.1.a The games offered by the casino licensee are performed only in accordance with the Act and this rule;

51.1.b The functions, duties, and responsibilities associated with the casino are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel, and to ensure that an employee of the casino licensee is not in a position to perpetuate and conceal errors or irregularities in the normal course of his or her duties; and

51.1.c The casino is operated by the casino licensee with integrity and in accordance with the Act and this rule.

##### **§179-8-52. Hours of operation.**

Gaming is authorized during hours set by the West Virginia Lottery Commission by its order.

##### **§179-8-53. Floor plans.**

53.1 A racetrack table games license applicant shall submit a floor plan or floor plans outlining each floor of the casino and the location, number, or position of each video lottery terminal and gaming table and position. A licensee or license applicant shall submit the floor plan or floor plans to the Commission not less than thirty days before the commencement of table games operations.

53.2 The casino licensee shall provide notice to the Commission of material changes in the casino floor plan before implementing the change.

53.3 The Director shall review any changes in floor plans and security camera locations. Changes in floor plans and security camera locations do not require a vote of the Commission.

##### **§179-8-54. Authorized games.**

54.1 The casino licensee shall not permit a table game to be played if the game is not approved by the Commission.

54.1.a The Commission shall authorize one or more variations of the following table games to be played at the casino:

- 54.1.a.1 Baccarat;
- 54.1.a.2 Twenty-one or blackjack;
- 54.1.a.3 Poker;
- 54.1.a.4 Craps;
- 54.1.a.5 Roulette;
- 54.1.a.6 Wheel of fortune; and
- 54.1.a.7 Other table games expressly permitted by the Commission.

54.1.b The Commission shall not authorize the following games to be played at the casino:

- 54.1.b.1 Punchboard;
- 54.1.b.2 Faro;
- 54.1.b.3 Numbers ticket;
- 54.1.b.4 Push card;
- 54.1.b.5 Jar ticket; and
- 54.1.b.6 Pull tab.

54.1.c Notwithstanding the provisions of this section, the West Virginia Lottery Commission may license any casino to sell regular West Virginia Lottery games authorized by W.Va. Code §29-22-1 et seq.

**§179-8-55. Submission and approval of game rules.**

55.1 The casino licensee or racetrack table games license applicant shall submit its table game rules to the Commission in accordance with this rule. The rule for each table game shall include a schematic showing all printing and positions on the table's felt. The State Lottery Commission's specified identifier symbol shall appear on the table felt at the location of the casino licensee' choosing, and shall be at least three-inches-by-three-inches in size. The location of the symbol shall be clearly visible to patrons playing the table game.

55.2 All game rules shall be in compliance with the provisions of the Act and this rule.

55.3 The casino licensee shall submit game rules in the following manner:

55.3.a The casino licensee shall submit game rules to the Commission not less than thirty days before the commencement of table games operations or the play of the table game, or both;

55.3.b The Commission shall vote to approve or disapprove the rules of the game in total or in part after the rules are presented by the Director. In the alternative, the Commission may delegate this approval to the Director;

55.3.c Any portion of the game rules not approved may be revised and resubmitted by the casino licensee within the time period established by the Commission. This method shall be followed until all portions of the game rules have been approved or approval cannot be obtained;

55.3.d Game rules may not be used by the casino licensee unless the rules of the game have been submitted and approved, in writing, by the Commission. The Commission shall approve the proposed rules of the game if the rules satisfy all of the following criteria:

55.3.d.1 The rules fulfill the purposes stated in the Act and this rule;

55.3.d.2 The rules ensure that the game will be played with integrity;

55.3.d.3 The rules are written in language that is plain to the player;

55.3.d.4 The rules will be readily available to patrons within the casino; and

55.3.d.5 The rules protect the public and ensure public confidence in gaming.

55.4 If the Commission determines, at any time, that the approved rules of the game are not adequate to ensure compliance with the Act and this rule or the integrity of the game, then the Commission may direct the casino licensee, in writing, to amend its rules of the game.

**§179-8-56. Amendments to game rules.**

56.1 All of the following provisions apply to amendments to rules of the game:

56.1.a Unless otherwise provided by the Commission, the casino licensee or license applicant shall submit an amendment to the rules of the game, including variations of games, to the Commission not less than thirty days before using the rules of the game; and

56.1.b The Commission shall vote to approve or disapprove the amendment to the game rules in the same manner that an initial submission is approved or disapproved.

**§179-8-57. Table limits.**

57.1 The rules of the game submitted by the casino licensee shall require that table limits for each table be clearly posted for the public.

57.2 The casino licensee may amend the minimum and maximum wager at a table if the new maximum wager is not above the house maximum wager for the game. The casino licensee may amend the minimum and maximum wagers of a table if both of the following actions are taken:

57.2.a A sign is posted at the gaming table advising patrons of the new minimum and maximum wagers in effect for the table; and

57.2.b Patrons at the table are advised of the change.

57.3 The casino licensee may raise the table limit for individual patrons by following procedures for raising the limits that have been submitted with the rules of the game and approved in accordance with this rule.

**§179-8-58. Playing card specifications.**

58.1 All playing cards used by the casino licensee shall be in compliance with all of the following specifications:

58.1.a Unless otherwise provided in this rule, or in the game rules document, all decks of cards shall be one complete standard deck of fifty-two cards in four suits and at least one joker. The four suits shall be hearts, diamonds, clubs, and spades. Each suit shall consist of all of the following numerical cards:

58.1.a.1 Two to ten;

58.1.a.2 A jack;

58.1.a.3 A queen;

58.1.a.4 A king; and

58.1.a.5 An ace;

58.1.b The backs of each card in a deck shall be identical and no card shall contain any marking, symbol, or design that will enable a person to know the identity of any element printed on the face of the card or that will differentiate the back of that card from any other card in the deck;

58.1.c All edges shall be perfectly square with each side at a precise ninety degree angle to each adjacent side of the card;

58.1.d The radius of all 4 corners shall be exactly the same;

58.1.e The name, trade name, or logo of the casino licensee and a Lottery-specified identifier symbol shall be imprinted on the back side of each playing card;

58.1.f In the hearts suit, the hearts shall be red in color;

58.1.g In the diamonds suit, the diamond pips shall be red in color;

58.1.h In the spades suit, the spades shall be black in color;

58.1.i In the clubs suit, the trefoil-shaped figure shall be black in color;

58.1.j All finished card decks are to be packaged using a cellophane or shrink wrap that have a tamper-resistant security seal and a tear band; and

58.1.k The playing card manufacturer's identification name shall be placed on each deck box.

**§179-8-59. Dice specifications.**

59.1 All dice used by the casino licensee shall be in compliance with all of the following specifications:

59.1.a The dice shall be formed in the shape of a perfect cube and of a size no smaller than 0.750 inches on each side nor larger than 0.775 inches on each side;

59.1.b The name, trade name, or logo of the casino licensee and a Lottery-specified identifier symbol shall be imprinted on or in each die used by the casino licensee;

59.1.c The dice shall be made exclusively of cellulose, except for the following:

59.1.c.1 Spots;

59.1.c.2 The name, trade name, or logo of the casino licensee and a Lottery-specified identifier symbol; and

59.1.c.3 The serial number or letters, or both;

59.1.d The surface of each side of the die shall be perfectly flat and the spots contained in each side of the die shall be perfectly flush with the area surrounding the spots;

59.1.e The edges and corners of each die shall be perfectly square and form ninety degree angles with each adjacent side;

59.1.f The texture and finish of each side shall be exactly identical to the texture and finish of all other sides;

59.1.g The weight of each die shall be equally distributed throughout the cube, and no side of the cube may be heavier or lighter than any other side of the cube;

59.1.h The die shall have 6 sides bearing white circular spots from 1 to 6, respectively, with the diameter of each spot equal to the diameter of every other spot on the die;

59.1.i The dice shall have spots arranged so that all of the following provisions are satisfied:

59.1.i.1 The side containing one spot is directly opposite the side containing 6 spots;

59.1.i.2 The side containing two spots is directly opposite the side containing five spots; and

59.1.i.3 The side containing three spots is directly opposite the side containing four spots.

59.1.j Each spot shall be placed on the die by drilling, or the equivalent, into the surface of the cube and filling the drilled out portion with a compound that is equal in weight to the weight of the cellulose drilled out and that forms a permanent bond with the cellulose cube.

59.1.k Each Lottery-specified identifier symbol shall be printed in a manner that shall not change the weight or balance of the die.

**§179-8-60. Removal of cards or dice from play.**

60.1 The casino licensee shall remove any dice or playing cards if there is an indication of any of the following:

60.1.a The dice or playing cards have been tampered with;

60.1.b The dice or playing cards are flawed; or

60.1.c The dice or playing cards are defective and the defect may affect the integrity or fairness of the game.

60.2 If there is an indication that dice or playing cards have been tampered with, then the pit manager, or his or her equivalent, shall place the dice or playing cards in an envelope, seal the envelope, and give the envelope to Lottery Security. The pit manager, or his or her equivalent, shall note all of the following information on the outside of the envelope:

60.2.a The date and time the dice or playing cards were removed from play;

60.2.b The live gaming device from which the dice or playing cards were removed from play;

60.2.c The characteristics that indicate that the dice or playing cards were tampered with; and

60.2.d The name of all occupational licensees at the live gaming device from which the dice or playing cards were removed, and the name of the pit manager or his or her equivalent, who removed the dice or playing cards from play.

60.3 Except for dice that are removed from play due to the possibility of tampering, all dice shall be canceled when removed from play. Dice may be canceled by any of the following means:

60.3.a Drilling a circular hole that is not less than 1/4 of an inch in diameter through the center of each die;

60.3.b Destroying the die by shredding; or

60.3.c Canceling the die in any other manner approved by the Director.

60.4 Except for playing cards that are removed from play due to the possibility of tampering, all playing cards shall be canceled by one of the following methods:

60.4.a Drilling a circular hole that is not less than 1/4 of an inch in diameter through the center of each card in the deck;

60.4.b Shaving not less than two corners of each playing card so that each side is no longer at ninety degree angles with each adjacent side;

60.4.c Shredding the cards; or

60.4.d Canceling the cards by any other method approved by the Director.

60.5 This rule shall not prevent a casino licensee from removing cards and dice from a game at any time in its discretion.

**§179-8-61. Storage of cards or dice.**

61.1 All dice or playing cards that are not being used at a live gaming device shall be kept in locked compartments on the licensed premises.

61.2 Dice and playing cards shall not be left at a live gaming table while unattended.

61.3 The casino licensee shall maintain an inventory of all dice and playing cards on forms prescribed by the Commission. The inventory shall contain all of the following information:

61.3.a The date on which the dice and playing cards were received;

61.3.b The quantity of the dice and playing cards received;

61.3.c The name, business address, and business telephone number of the manufacturer from which the dice or playing cards were received;

61.3.d The quantity of dice and playing cards that are placed into play each day;

61.3.e The quantity of dice and playing cards that are removed from play due to suspected tampering and the date of the removal; and

61.3.f The quantity of dice and playing cards that are removed from play and canceled each day;

61.4 The casino licensee shall conduct a physical inventory of the dice and playing cards every three months. The casino licensee shall record the results of the physical inventory on forms prescribed by the Commission. The casino licensee shall reconcile inventory maintained in subsection 3 of this section with the results of the physical inventory. The casino licensee shall immediately report any discrepancies in the inventory forms and the physical inventory to the Commission.

**§179-8-62. Inspection of cards.**

62.1 When playing cards are accepted for play at a live gaming table, the occupational licensee accepting the playing cards shall inspect the playing cards to ensure the playing cards comply with this rule.

62.2 Playing cards shall be inspected by sorting the cards sequentially by suit and inspecting the sides of the cards for crimps, bends, cuts, shaving, or any other defect that would affect the integrity or fairness of the game.

**§179-8-63. Inspection of dice.**

63.1 Before dice are placed into play at a live gaming table, the pit manager, or his or her equivalent, shall inspect the dice to ensure the dice comply with this rule.

63.2 Dice shall be inspected by all of the following methods on a flat surface that allows the inspection of the dice to be monitored by the surveillance system:

63.2.a A micrometer or any other approved instrument that performs the same function;

63.2.b A balancing caliper; or

63.2.c A steel set square and magnet.

63.3 The casino licensee shall store the micrometer or other approved instrument, the balancing caliper, and/or the steel set square and magnet in a secure place that is not accessible by the public.

**§179-8-64. Table game wagering; cashless wagering system required.**

64.1 The casino licensee may not permit any form of wagering except as authorized by this rule.

64.2 The casino licensee may receive wagers only from an individual present in a licensed gaming facility.

64.3 All table game operations shall use a cashless wagering system whereby all players' money is converted to chips or other approved media that can only be used for wagering in a licensed casino.

64.4 Except as permitted for video lottery games under the Racetrack Video Lottery Act, W.Va. Code §29-22A-1 et seq., wagering may not be conducted with money or other negotiable currency.

**§179-8-65. Cashing-in.**

The casino licensee shall comply with all Internal Revenue Service laws and regulations and state laws and rules for the withholding of taxes from winnings or the filing of currency transaction reports, or both. A patron shall produce an identification card confirming information required by all federal and state rules and regulations for the withholding of taxes from winnings or currency transaction reports, or both, before the disbursement of winnings. If no identification card is tendered by the patron, distributed winnings may be subject to backup withholdings as provided by the Internal Revenue Code.

**§179-8-66. Submission of chips for review and approval.**

66.1 The casino licensee shall submit, to the Commission for approval, a sample of each denomination of value and non-value chips in its primary and secondary sets and shall not use the chips for gaming purposes until approved by the Director.

66.2 In requesting approval of the chips, the casino licensee shall first submit to the Commission, before having any chips manufactured, a detailed schematic of its proposed chips, or a sample chip, which shall show the front, back, and edge of each denomination of value chip and each non-value chip, and the design and wording to be contained on the chip, all of which shall be depicted on the schematic or chip as they will appear, both as to size and location, on the actual chip. Once the design schematics or chip is approved by the Commission, a value or non-value chip shall not be issued or used until a sample of each denomination of value chip and each color of non-value chip is also submitted to, and approved by, the Commission.

66.3 The casino licensee, or any licensed supplier or unlicensed supplier, shall not manufacture for, sell to, distribute to, or use in, any casino outside West Virginia any value or non-value chips that have the same edge design as chips approved for use by the licensed casino.

**§179-8-67. Chip specifications; optional radio frequency identification sensors in each chip.**

67.1 All of the following specifications apply to value chips:

67.1.a A chip issued by the casino licensee shall be round in shape and have the name of the casino, the Lottery-specified identifier symbol and the specific value of the chip clearly and permanently impressed, engraved, or imprinted on the chip, except that the casino licensee may issue gaming chips without a value impressed, engraved, or imprinted on the chip for roulette. A chip that has a value contained on the chip is known as a "value chip" and a chip that does not have a value contained on the chip is known as a "non-value chip";

67.1.b A value chip may be issued by the casino licensee in denominations of 50 cents, \$1.00, \$2.00, \$2.50, \$3.00, \$5.00, \$20.00, \$25.00, \$100.00, \$500.00, \$1,000.00, and \$5,000.00. The casino licensee may determine the denominations to be used in its casino and the amount of each denomination for the conduct of casino gaming operations;

67.1.c Each denomination of value chip shall have a primary color different from every other denomination of value chip. Value chips shall fall within the colors set forth in this subdivision when the chips are viewed both in daylight and under incandescent light. In conjunction with the primary colors, the casino licensee shall use contrasting secondary colors for the edge spots on each denomination of value chip. Unless otherwise approved by the Director, the casino licensee shall not use a secondary color on a specific denomination of chip identical to the secondary color used by a casino outside the boundaries of the State of West Virginia on the same denomination of the value chip. The primary color that the casino licensee shall use for each denomination of value chip is as follows:

67.1.c.1	50 cents	"Mustard yellow;"
67.1.c.2	\$ 1.00	"White;"
67.1.c.3	\$ 2.00	"Tan;"
67.1.c.4	\$ 2.50	"Pink;"
67.1.c.5	\$ 3.00	"Brown;"
67.1.c.6	\$ 5.00	"Red;"
67.1.c.7	\$ 20.00	"Yellow;"
67.1.c.8	\$ 25.00	"Green;"
67.1.c.9	\$ 100.00	"Black;"
67.1.c.10	\$ 500.00	"Purple;"
67.1.c.11	\$1,000.00	"Fire orange;" and
67.1.c.12	\$5,000.00	"Gray;"

67.1.d Each denomination of value chip used by the casino licensee shall, unless otherwise authorized by the Commission, be in compliance with all of the following specifications:

67.1.d.1 It shall have a center portion containing the value of the chip and the name of the casino of a different shape from each other denomination;

67.1.d.2 It shall have the Lottery-specified identifier symbol;

67.1.d.3 It shall be designed so that the specific denomination of the chip can be determined on closed circuit black and white television when placed in a stack of chips of other denominations; and

67.1.d.4 At the casino's option, or at a later time that may be determined by the Commission, each chip shall have an embedded radio frequency microchip that uniquely identifies the chip itself, the issuing casino and the denomination of the chip; and

67.1.e The Commission may approve a value chip in denominations that deviate from the requirements of this rule if the deviation is specifically identified by the casino licensee and if the deviation does not affect the control, security, or integrity of the chips or the operation of the games.

67.2 All of the following provisions apply to non-value chips:

67.2.a Each non-value chip used by the casino shall be issued solely for the purpose of gaming at roulette. Each non-value chip at each roulette table shall:

67.2.a.1 Have the name of the casino issuing it impressed, engraved, or imprinted into its center;

67.2.a.2 Contain a design, insert, or symbol differentiating it from the non-value chips being used at every other roulette table in the casino; and

67.2.a.3 Have the word "roulette" impressed on it;

67.2.b Non-value chips issued at a roulette table shall only be used for gaming at that table and shall not be used for gaming at any other table in the casino. The casino licensee or its employees shall not allow a casino patron to remove non-value chips permanently from the table from which the chips were issued;

67.2.c An individual at a roulette table shall not be issued or permitted to wager with non-value chips that are identical in color and design to value chips or to non-value chips being used by another individual at the same table. When a patron purchases non-value chips, a non-value chip of the same color shall be placed in a slot or receptacle attached to the outer rim of the roulette wheel. At that time, a marker button denoting the value of a stack of chips of that color shall be placed in the slot or receptacle;

67.2.d Non-value chips shall only be presented for redemption at the table from which they were issued and shall not be redeemed or exchanged at any other location in the casino gaming operation. When presented for redemption, the dealer at the table shall exchange the chips for an equivalent amount of value chips, which may then be used by the patron in gaming or redeemed in the manner provided for value chips; and

67.2.e The casino licensee may permit, limit, or prohibit the use of value chips in gaming in roulette. However, it is the responsibility of the casino licensee to keep an accurate account of the wagers being made at roulette with value chips so that the wagers made by one player are not confused with wagers made by another player at the table.

**§179-8-68. Primary, secondary, and reserve sets of gaming chips.**

68.1 Unless otherwise authorized by the Commission, the casino licensee shall have a primary set of value chips, a separate secondary set of value chips, and a non-value chip reserve that conform to the color and design specification set forth in this rule. An approved secondary set of value chips and reserve non-value chips shall be placed into active play if the primary set is removed.

68.2 The secondary set of value chips shall have different secondary colors than the primary set of value chips. A secondary set of value chips is required for all denominations in use in the casino.

68.3 The casino licensee shall have a non-value chip reserve for each color used in the casino and a design insert or symbol of the reserve chips shall be different from the non-value chips comprising the primary set.

68.4 The casino licensee shall remove the primary set of gaming chips from active play if any of the following provisions apply:

68.4.a A determination is made by the casino licensee or the Commission that the table games operation is receiving a significant number of counterfeit chips; or

68.4.b Any other impropriety or defect in the use of the primary set of chips makes removal of the primary set necessary.

68.5 If the primary set of chips is removed from active play, then the casino licensee shall immediately notify the Commission as to the reason for the removal.

**§179-8-69. Distribution of coupons for complimentary chips.**

69.1 The casino licensee may, for specified marketing purposes, provide patrons of its table games operation with coupons redeemable for complimentary chips if both of the following requirements are satisfied:

69.1.a The processes and procedures for the control, accountability, and distribution of coupons for chips and tokens and for the redemption of the coupons are provided for in the casino licensee's internal control system and are in conformance with the internal control system; and

69.1.b Periodic internal audits validate the integrity and accountability of the processes and procedures authorized and required under this rule.

**§179-8-70. Exchange of chip.**

70.1 The casino licensee shall issue chips to an individual only at the request of the individual and shall not issue chips as change in any other transaction. The casino licensee shall issue chips only to casino patrons at cashier's cages or at the live gaming tables and shall redeem chips only at a cashier's cage.

70.2 The casino licensee shall redeem chips only from its patrons and shall not knowingly redeem chips from any non-patron source, except when non-gaming employees present chips for redemption as provided in the approved internal control system of the casino.

70.3 The casino licensee shall promptly redeem its own chips by cash or by check dated the day of the redemption on an account of the casino licensee, as requested by the patron, except when the chips were obtained or used unlawfully.

70.4 The casino licensee may demand the redemption of its chips from any individual in possession of chips. An individual shall redeem the chips upon presentation of an equivalent amount of cash by the casino licensee.

70.5 The casino licensee shall cause to be posted and keep posted, in a prominent place a sign, visible at or near each cashier's cage, that reads as follows: "Gaming chips issued by any other casino in the world may not be wagered or redeemed in this casino."

**§179-8-71. Receipt of gaming chips from licensed supplier.**

71.1 When chips are received from the supplier, they shall be opened and checked by not less than two casino employees from different departments. The casino licensee shall promptly report to the Commission any deviation between the invoice accompanying the chips and the actual chips received or any defects found in the chips. The supplier licensee shall give the Commission prior notification of the delivery of chips to the casino licensee. The casino licensee shall not accept the delivery of chips unless the Commission has been given prior notification of the delivery.

71.2 After checking the chips received, the casino licensee shall cause to be reported, in a chip inventory ledger, all of the following information:

- 71.2.a The denomination of the chips received;
- 71.2.b The number of each denomination of chip received;
- 71.2.c The number and description of all non-value chips received;
- 71.2.d The date of the receipt; and
- 71.2.e The signature of the individuals who checked the chips.

71.3 If any of the chips received are to be held as reserve chips and not used either at the gaming tables or at a cashier's cage, then a licensee shall ensure that the chips are stored in a separate locked compartment either in the vault or in a cashier's cage and are recorded in the chip inventory ledger as reserve chips.

71.4 A casino licensee shall ensure that any chips received that are part of the secondary set of chips of the casino are recorded in the chip inventory ledger as secondary chips and are stored in a locked compartment in the casino vault separate from the reserve chips.

**§179-8-72. Inventory of chips.**

72.1 Chips shall be taken from or returned to either the reserve chip inventory or the secondary set of chips in the presence of not less than two individuals from two of the following independent departments of the casino: Security; accounting; auditing; or the table games department. The denominations, number, and amount of chips taken or returned shall be recorded in the chip inventory ledger together with the date and signatures of the individuals carrying out the process.

72.2 The casino licensee shall, on a monthly basis, compute and record the unredeemed liability for each denomination of chips to ensure that an inventory of chips in circulation is made and to ensure that the result of the inventory is recorded in the chips inventory ledger. On a

monthly basis, the casino licensee shall ensure that an inventory of the chips in reserve is made and ensure that the result of the inventory is recorded in the chip inventory ledger. A casino licensee shall submit the procedures it will use to compute the unredeemed liability and to inventory chips in circulation and reserve to the Commission for approval. A physical inventory of chips in reserve is required annually if the inventory procedures incorporate the sealing of the locked compartment.

72.3 During any non-gaming hours, the casino licensee shall ensure that all chips in the possession of the casino are stored in the chip bank, in the vault, or in a locked compartment in a cashier's cage. However, chips may be locked in a transparent compartment on gaming tables if there is adequate security as approved by the Commission.

**§179-8-73. Destruction of chips.**

73.1 Before destroying chips, the casino licensee shall notify the Director, in writing, of the date and the location at which the destruction will be performed, the denomination, number, and amount of value chips to be destroyed, the description and number of non-value chips to be destroyed, the denomination, number, and amount of tokens to be destroyed, and a detailed explanation of the method of destruction.

73.2 Unless otherwise authorized by the Commission, the destruction of chips shall be carried out in the presence of not less than two individuals, one of whom shall be an employee of the West Virginia Lottery.

73.3 The licensee shall ensure that the denomination, number, and amount of value chips, and the number and description of non-value chips, destroyed are recorded in the chip inventory ledger together with the signatures of the individuals carrying out the destruction and the date on which the destruction took place.

**§179-8-74. Destruction of counterfeit chips.**

74.1 The following provisions apply to the destruction of counterfeit chips and tokens:

74.1.a The casino licensee shall notify the Commission and the Director, by telephone and also in writing, immediately upon the discovery of a counterfeit chip or chips that results in a loss of more than one thousand dollars to the licensee;

74.1.b The Commission may take possession of the counterfeit chips to aid the State Police in a criminal investigation; and

74.1.c The Commission shall determine the disposition of any counterfeit chip including, but not limited to, destruction of a counterfeit chip in accordance with this rule.

74.2 The following provisions apply to the destruction of counterfeit chips:

74.2.a Unless the Commission or a law enforcement officer instructs in writing, or a court of competent jurisdiction orders otherwise in a particular case, the casino licensee shall destroy or otherwise dispose of counterfeit chips discovered in the casino in a manner approved by the Commission; and

74.2.b The casino licensee shall notify the Commission, in writing, not less than thirty days before counterfeit chips are destroyed. The casino licensee shall notify the Commission of all of the following information:

74.2.b.1 The number and denominations, actual and purported, of the counterfeit chips destroyed or otherwise disposed of under this rule;

74.2.b.2 The date on which the counterfeit chips were discovered;

74.2.b.3 The date, place, and method of destruction or other disposition, including, in the case of foreign coin exchanges, the exchange rate and the identity of the bank, exchange company, or other business or person at which, or with whom, the coins are exchanged;

74.2.b.4 The names of the occupational licensees carrying out the destruction or other disposition on behalf of the casino licensee; and

74.2.b.5 Any information considered necessary by the Commission to ensure compliance with the Act and this rule.

74.3 Unless otherwise approved by the Commission, not less than two people, one of whom is an agent of the West Virginia Lottery, shall be present when the counterfeit chips are destroyed.

**§179-8-75. Submission of accounting procedures and internal controls for complimentary chip program.**

75.1 Not less than thirty days before the initiation of the coupon distribution program the casino licensee shall submit internal control procedures concerning the coupon distribution program to the Commission. The internal control procedures shall include, at a minimum, all of the following information:

75.1.a The casino departments that will be responsible for administering the coupon distribution program;

75.1.b The security measures that will be taken with respect to the coupons, including, but not limited to, all of the following information:

75.1.b.1 The manner in which the coupons will be ordered;

75.1.b.2 The manner in which the coupons will be inventoried upon receipt by the casino licensee;

75.1.b.3 The manner in which the coupons will be stored and the individuals who will have access to the coupons;

75.1.b.4 The manner in which discrepancies will be handled; and

75.1.b.5 The manner in which coupons will be voided;

75.1.c The manner in which the coupons will be distributed;

75.1.d The schedule for conducting routine inventories of active unissued coupons. The inventory shall be conducted monthly by not less than two individuals from separate departments. The results of the inventory shall be recorded in the coupon control ledger;

75.1.e The manner in which coupons will be removed from the inventory, recorded, and voided once the coupons become inactive;

75.1.f The manner in which the casino department responsible for distributing the coupons can requisition coupons from the casino department responsible for storing the coupons;

75.1.g The maximum number of days in advance of an event that coupons can be requisitioned by the casino department responsible for issuing the coupons. The requisition document shall contain, at a minimum, all of the following information:

75.1.g.1 The date the requisition is prepared;

75.1.g.2 The day and date for which the coupons are needed;

75.1.g.3 The type or types of coupons that are requested;

75.1.g.4 The number of coupons required;

75.1.g.5 The name, title, and occupational license number of the individual completing the requisition; and

75.1.g.6 The name, title, occupational license number, and signature of the supervisor authorizing the requisition;

75.1.h The casino department responsible for storing the coupons shall complete all of the following information before the coupons are given to the casino department responsible for distributing the coupons:

75.1.h.1 The name, title, occupational license number, and signature of the representative filling the order;

- 75.1.h.2 The beginning serial number of the coupons issued;
- 75.1.h.3 The ending serial number of coupons issued;
- 75.1.h.4 The total number of and type of coupons issued;
- 75.1.h.5 The name, title, occupational license number, and signature of the supervisor;
- 75.1.h.6 A record and explanation of any coupons that were voided due to discrepancies; and
- 75.1.h.7 The casino department responsible for storing the coupons shall enter the information in paragraphs 76.1.i.2 to 76.1.i.4 of this subdivision in the coupon control ledger;
- 75.1.i The manner in which the coupons will be issued. The casino licensee shall require that coupons be stamped with the date of issuance;
- 75.1.j The location of the locked cabinet in which the coupons will be stored before the distribution of the coupons;
- 75.1.k The manner in which coupons may be redeemed for chips or tokens, or both, by patrons;
- 75.1.l The manner in which coupons redeemed by patrons will be canceled;
- 75.1.m The manner in which the coupons distributed, coupons not distributed, and coupons issued will be reconciled;
- 75.1.n The manner in which coupons that have been issued, but not distributed to patrons in the appropriate time frame, will be voided and reconciled; and
- 75.1.o The manner in which a dealer or cage employee shall receive and account for coupons redeemed by patrons.

75.2 The Commission shall, in writing, approve the internal control procedures in total or in part.

75.3 The casino licensee shall revise and resubmit any portion of the internal control procedures not approved by the Commission within the time frame established by the Commission. The casino licensee shall revise and resubmit the internal control procedures until all portions of the internal control procedures have been approved or approval cannot be obtained.

75.4 The casino licensee may not use an internal control procedure unless the internal control procedure has been approved by a vote of the Commission.

75.5 If the Commission determines, at any time, that approved internal control procedures are not adequate to ensure compliance with the Act and this rule, it may direct the casino licensee to amend its internal control procedure in accordance with this rule.

75.6 In lieu of manual procedures prescribed in this section 76, the Commission may approve a casino licensee's automated process if the control of the process is sufficient for the Commission's purposes.

**§179-8-76. Amendments to internal control procedures.**

76.1 The casino licensee shall make amendments to the internal control procedures with respect to complimentary chip programs as follows:

76.1.a Unless otherwise provided by the Commission, the casino licensee shall submit amendments to the internal control procedures to the Commission not less than thirty days before using the amended internal control procedure;

76.1.b The Commission or its designee shall, in writing, approve the amendment to the internal control procedure in total or in part; and

76.1.c The casino licensee shall not use an amendment to internal control procedures unless the amendment to the internal control procedure has been approved, in writing, by the Commission.

**§179-8-77. Coupon accounting procedures and distribution program.**

77.1 Not less than two casino departments shall be responsible for administering the coupon accounting procedures and distribution program. One casino department shall be responsible for storing the coupons and the other department shall be responsible for issuing the coupons.

77.2 The casino licensee shall ensure that coupons received from a supplier are opened and examined by not less than two individuals from different casino departments. The casino licensee shall ensure that any deviations in the coupons ordered and coupons received are recorded in compliance with this rule and are reported immediately to the appropriate supervisor.

77.3 The casino licensee shall maintain a coupon control ledger in the manner prescribed by the Commission. The coupon control ledger shall contain, at a minimum, all of the following information:

77.3.a The date the coupons were received;

- 77.3.b The type and quantity of coupons received;
- 77.3.c The beginning serial number of the coupons received;
- 77.3.d The ending serial number of the coupons received;
- 77.3.e The purchase order number or requisition number for the coupons received;
- 77.3.f The signatures and occupational license numbers of all individuals who examined the coupons upon receipt of the coupons;
- 77.3.g The date the coupons were issued to the casino distribution department;
- 77.3.h The beginning serial number of the coupons issued to the casino distribution department;
- 77.3.i The ending serial number of the coupons issued to the casino distribution department;
- 77.3.j The number and quantity of coupons issued to the casino distribution department;
- 77.3.k The balance of unissued coupons on hand;
- 77.3.l The name, title, occupational license number, and signature of the representative issuing the coupons;
- 77.3.m The name, title, occupational license number, and signature of the representative receiving the issued coupons;
- 77.3.n A record of any coupons that are distributed to patrons; and
- 77.3.o A record and explanation of any deviations from the licensed gaming facility licensee's coupon specifications.

77.4 The casino department responsible for distributing the coupons shall maintain a daily coupon reconciliation form. One daily coupon reconciliation form shall be completed to account for all individuals responsible for distributing coupons to patrons. The daily coupon reconciliation form shall contain, at a minimum, all of the following information:

- 77.4.a The date;
- 77.4.b The type of coupon being issued;

77.4.c The beginning and ending serial numbers of the coupons the individual has to distribute to patrons;

77.4.d The quantity of coupons the individual has to distribute to patrons;

77.4.e The total number of coupons the individual distributed to patrons;

77.4.f The beginning and ending serial numbers of coupons not distributed to patrons;

77.4.g The total number of coupons not distributed to patrons;

77.4.h The serial numbers of any coupons that were voided and the reason the coupons were voided;

77.4.i The name, title, occupational license number, and signature of the individual distributing the coupons to patrons and completing the form;

77.4.j The name, title, occupational license number, and signature of the occupational licensee's supervisor; and

77.4.k Any variations discovered and an explanation of the variations.

77.5 In lieu of any manual procedures prescribed in this section 78, the Commission may approve a casino licensee's automated process if the control of the automated process is sufficient for the Commission's purposes.

#### **§179-8-78. Coupon requirements.**

78.1 Coupons used in the complimentary chips program shall be original instruments and shall contain, at a minimum, all of the following information:

78.1.a Any serial number assigned to the coupon;

78.1.b A description of the value of the coupon;

78.1.c The location or locations where the coupon may be redeemed;

78.1.d The name of the casino licensee;

78.1.e The date or dates for which the coupon is valid;

78.1.f The Lottery-specified identifier symbol; and

78.1.g Any other information considered necessary by the Commission to ensure compliance with the Act and this rule.

78.2 If a multiple-part coupon is used, then each part of the coupon shall contain the information set forth in this subsection.

78.3 Coupons shall be designed and manufactured so that the denomination and type of coupon can be determined using the surveillance system.

**§179-8-79. Records.**

79.1 The casino licensee shall maintain the records required by this rule for at least the current year and the previous two years unless they are sooner audited by the Commission or its designee.

79.2 The casino licensee shall allow the Commission access to, or provide copies of, the records maintained under this rule upon request by the Commission.

**PART 5. INTERNAL CONTROL PROCEDURES**

**§179-8-80. Purpose.**

80.1 The procedures of the internal control system are designed to ensure that:

80.1.a Assets of the casino licensee are safeguarded;

80.1.b Financial records of the casino licensee are accurate and reliable;

80.1.c Transactions of the casino licensee are performed only in accordance with the specific or general authorization of this part;

80.1.d Transactions are recorded adequately to permit the proper recording of the adjusted gross receipts, fees, and all applicable taxes;

80.1.e Accountability for assets is maintained in accordance with generally accepted accounting principles;

80.1.f Only authorized personnel have access to assets;

80.1.g Recorded accountability for assets is compared with actual assets at reasonable intervals and appropriate action is taken with respect to any discrepancies;

80.1.h Internal control functions, duties, and responsibilities are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel

and that no employee of the casino licensee is in a position to perpetuate and conceal errors or irregularities in the normal course of the employee's duties; and

80.1.i Gaming is conducted with integrity and in accordance with the Act and this rule.

**§179-8-81. Commission approval of internal control system.**

81.1 The casino licensee shall describe, in a manner that the Commission may approve or require, its administrative and accounting procedures in detail in a written system of internal control. A written system of internal controls shall include a detailed narrative description of the administrative and accounting procedures designed to satisfy the requirements of this rule. Additionally, the description shall include a separate section for all of the following:

81.1.a An organizational chart depicting the appropriate segregation of internal control functions and responsibilities;

81.1.b A description of the duties and responsibilities of each position shown on the organizational chart;

81.1.c A detailed, narrative description of the administrative and accounting procedures designed to satisfy the requirements of this rule with separate sections for the:

- 81.1.c.1 Physical characteristics of the drop box and tip box;
- 81.1.c.2 Transportation of drop and tip boxes to and from gaming tables;
- 81.1.c.3 Procedures for table inventories;
- 81.1.c.4 Procedures for opening and closing gaming tables;
- 81.1.c.5 Procedures for fills and credits;
- 81.1.c.6 Procedures for accepting and reporting tips and gratuities;
- 81.1.c.7 Procedures for transporting chips and tokens to and from gaming tables;
- 81.1.c.8 Procedures for shift changes at gaming tables;
- 81.1.c.9 Procedures for chip and token purchases;
- 81.1.c.10 Procedures for the transportation of electronic gaming devices;
- 81.1.c.11 Layout and physical characteristics of the cashier's cage;

- 81.1.c.12 Procedures for accounting controls;
  - 81.1.c.13 Procedures for the exchange of checks submitted by gaming patrons;
  - 81.1.c.14 Procedures for credit card and debit card transactions;
  - 81.1.c.15 Procedures for the acceptance, accounting for and redemption of a patron's cash deposits;
  - 81.1.c.16 Procedures for the control of coupon redemption and other complimentary distribution programs;
  - 81.1.c.17 Procedures for federal cash transactions reporting; and
  - 81.1.c.18 Procedures for computer backups and assuring the retention of financial and gaming operation.
- 81.1.e Other items required by the Commission.

81.2 Not less than ninety days before the gaming operation commences, unless otherwise directed by the Commission, the casino licensee shall submit, to the Commission, a written description of its internal control system that is designed to satisfy the requirements of subsection 81.1 of this rule.

81.2.a If the written internal control system is the initial submission to the Commission, then a letter shall be submitted from an independent certified public accountant selected by the applicant or licensee and approved by the Commission stating that the licensee's written system has been reviewed by the accountant and is in compliance with the requirements of subsection 82.1 of this rule;

81.2.b The Commission shall review each submission required by this subsection of this rule and shall determine whether it conforms to the requirements of subsection 82.1 of this rule and whether the system submitted provides adequate and effective controls for the operations of the licensee; and

81.2.c If the Commission finds any insufficiencies, then the Commission shall specify the insufficiencies, in writing, and submit the written insufficiencies to the licensee. The casino licensee shall make appropriate alterations.

81.3 The casino shall not commence gaming operations until a system of internal controls is approved.

**§179-8-82. Amendments to internal control procedures.**

82.1 All of the following provisions apply to amendments to the internal control procedures:

82.1.a Unless otherwise provided by the Commission, amendments to any portion of the internal control procedures shall be submitted to the Commission not less than thirty days before the amended internal control procedure is used;

82.1.b The Commission shall vote to approve the amendment to the internal control procedure in total or in part; and

82.1.c An amendment to internal control procedures may not be used by the casino licensee unless the amendment to the internal control procedure has been approved by a vote of the Commission;

**§179-8-83. Internal control emergency procedures.**

83.1 In the event of an emergency, the casino licensee may temporarily amend an internal control procedure. The Director must concur that an emergency exists before the casino licensee may amend an internal control procedure.

83.2 The casino licensee shall report any emergency temporary amendment of the internal control procedures to the Director immediately.

83.3 The casino licensee shall submit a description of the emergency temporary amendment of the internal control procedures and the circumstances necessitating the emergency amendment to the Commission promptly within five calendar days of the amendment.

83.4 As soon as the circumstances necessitating the emergency temporary amendment to the internal control procedures abate, the casino licensee shall resume compliance with the approved internal control procedures.

**PART 6. SECURITY AND SURVEILLANCE**

**§179-8-84. Surveillance and recording systems; staffing; installation of different or new types of audio or visual recording or surveillance technology.**

84.1 The casino licensee shall require that the casino surveillance room be staffed by an occupational licensee employed to work in the surveillance department at all times that any of the following occur:

84.1.a Gaming;

84.1.b The currency collection process;

84.1.c The soft count process;

84.1.d Armored car cash deliveries and pickups; and

84.1.e Other times considered necessary by the Commission to ensure compliance with the Act and this rule.

84.2 Subject to approval of the Commission, the casino licensee may install different or new types of audio or visual recording or surveillance technology in the casino and related facilities for purposes of compliance with the Act or this rule.

**§179-8-85. Surveillance and Commission surveillance room specifications.**

85.1 There shall be recording and monitoring rooms in the casino. The room for the use of the casino's surveillance employees of the gaming operation shall be designated the "Casino Surveillance Room." The casino security office shall be separate from the casino surveillance room and be located in a different area of the building.

85.2 The casino's surveillance room shall:

85.2.a Be located out of the general view of patrons and non-surveillance employees; and

85.2.b Have access limited to surveillance room personnel and persons with a legitimate need to enter the area.

85.3 Within the suite of offices set aside by the casino licensee for the use of Commission personnel, one of the rooms shall be equipped with surveillance monitoring equipment that will allow representatives of the Commission to view any camera scene the casino monitors without intervention or assistance of casino personnel.

**§179-8-86. Detained or arrested persons.**

The casino licensee shall immediately report, to on-site Commission personnel the physical detention of a person suspected of criminal activity.

**§179-8-87. Secured delivery station specifications.**

The casino licensee shall provide a secure delivery station that shall be covertly surveilled and monitored during all hours of operation.

**§179-8-88. Required surveillance equipment.**

88.1 The casino licensee shall install a closed circuit television system in accordance with this rule.

88.2 The casino shall have a sufficient number of monitors in the surveillance rooms to protect patrons adequately and ensure the integrity of casino gaming. The Commission surveillance room and the casino surveillance room shall have appropriate switching capabilities to ensure all surveillance cameras are accessible to monitors in each room, except for the camera and monitor that allow the Commission, or West Virginia State Police personnel assigned to the Commission, or both, to monitor employees in the casino surveillance room. The equipment in the Commission surveillance room shall be able to monitor and record, without being overridden, anything visible by monitor to employees of the casino licensee.

88.3 A table game shall have cameras that continuously monitor and record all games during all hours of casino operations.

88.4 The Commission surveillance room shall have a color television monitoring system which is in compliance with the requirements for surveillance equipment in this rule and which is capable of monitoring employees in the casino surveillance room.

88.5 The equipment used in the closed circuit television system shall be in compliance with all of the following requirements:

88.5.a Color television cameras shall provide good resolution for observing chips, dice, playing cards and positions on the roulette wheel;

88.5.b The cameras shall be equipped with lenses of sufficient magnification capabilities to allow the operator to clearly distinguish the value of all of the following:

88.5.b.1 Chips;

88.5.b.2 Dice;

88.5.b.3 Playing cards; and

88.5.b.4 Positions on the roulette wheel.

88.5.c Each monitor shall have a date and time generator that is synchronized to a central clock which can be displayed on any of the monitors while recording on videotape, video pictures, or other means of electronic recording;

88.6 There shall be sufficient recorders to allow for the simultaneous recording of the coverage described in this rule, off-line playback, and duplication capabilities

88.7 Surveillance equipment must have a backup power supply so that the date-time generator remains accurate despite power interruptions.

**§179-8-89. Closed circuit television required surveillance.**

89.1 The surveillance closed circuit television system shall be capable of covertly monitoring activities on the casino floor and related areas, including patron passages leading to and from the casino operation and gaming operation areas.

89.2 The Commission may require additional areas be monitored to ensure compliance with the Act and this rule and to ensure the safety of patrons and the integrity of gaming.

**§179-8-90. Closed circuit television surveillance system coverage.**

90.1 All of the following areas of the casino shall be covertly monitored:

- 90.1.a Live gaming tables;
- 90.1.b Pits;
- 90.1.c The main bank;
- 90.1.d The soft count room; and
- 90.1.e The secured delivery station.

90.2 The surveillance system shall provide an overall view of live table games that permits clear identifying of all of the following:

- 90.2.a Dealers;
- 90.2.b Patrons;
- 90.2.c All pit personnel; and
- 90.2.d Activities of all pit personnel.

90.3 The playing surface of the tables shall be viewed with sufficient clarity to determine all of the following:

- 90.3.a All wagers;
- 90.3.b Card values; and
- 90.3.c Game results.

90.4 The playing surface of the tables shall be viewed with sufficient clarity to clearly observe, in detail, all of the following:

- 90.4.a Chip trays;
- 90.4.b Token holders;
- 90.4.c Cash receptacles;
- 90.4.d Tip boxes;
- 90.4.e Dice;
- 90.4.f Shuffle machines;
- 90.4.g Card shoes; and
- 90.4.h The Lottery-specified identifier symbol.

90.5 The surveillance system shall be capable of providing a reasonably clear view of all of the following:

90.5.a The activity by players and employees, alone or in concert, that may constitute cheating or stealing;

90.5.b The failure of employees to follow proper procedures and internal controls;

90.5.c The treatment of disorderly persons;

90.5.d The treatment of persons on the exclusion list;

90.5.e Arrests and evictions; and

90.5.f The movement of cash, cards, chips, or dice on the casino floor. Upon notification of the intended movement of any cash, cards, chips, or dice, both of the following provisions shall be complied with:

90.5.f.1 The surveillance system personnel shall record the notification in the Activities log; and

90.5.f.2 During the course of routine surveillance, the progress of the movement shall be monitored to ensure that all procedures and internal controls are followed; and

90.5.g Areas where any of the following items are stored shall be monitored by a dedicated camera capable of continuous recording or motion activation:

- 90.5.g.1 Cash;
- 90.5.g.2 Chips;
- 90.5.g.3 Cards; and
- 90.5.g.4 Dice;

90.5.h Areas where any of the following items are transported or stored shall be monitored by a dedicated camera capable of continuous recording or motion activation:

- 90.5.h.1 Chips;
- 90.5.h.2 Cash; and
- 90.5.h.3 Cash equivalents.

**§179-8-91. Closed circuit television surveillance system recording requirements.**

91.1 The surveillance system shall visually record any activity considered necessary by the Commission to ensure compliance with the Act and to ensure protection of the public and the integrity of table gaming. These activities shall be set forth in an interpretive rule of the Commission.

91.2 All soft count activities shall be both visually and audibly recorded.

**§179-8-92. Retention of recorded activities.**

92.1 Date and time readings of routine activity shall be recorded and retained for not less than fourteen days.

92.2 The original recording of a violation of internal controls or criminal activity shall immediately be provided to the Commission and a copy of the recording shall be retained for not less than fourteen days.

**§179-8-93. Segregated and secured telephone communication.**

The casino licensee shall provide, in the West Virginia Lottery's surveillance room and in the West Virginia Lottery casino office, a segregated and secured telephone communications system for use by the Commission personnel and by West Virginia State Police personnel assigned to assist the Commission.

**§179-8-94. Daily surveillance logs; visitors' logs.**

94.1 The casino licensee shall maintain a daily surveillance log and a log of visitors to the surveillance room. A daily surveillance log shall:

- 94.1.a Be continuously maintained by surveillance personnel;
- 94.1.b Be changed with each shift change of personnel;
- 94.1.c Be chronological;
- 94.1.d Contain, at a minimum, all of the following information:
  - 94.1.d.1 The date and time of each entry;
  - 94.1.d.2 The identity of the employee making the entry;
  - 94.1.d.3 A summary of the activity recorded;
  - 94.1.d.4 A detailed statement of whether the activity was monitored; and
  - 94.1.d.5 A detailed statement concerning the disposition of the recording, if recorded;
- 94.1.e Unless otherwise directed by the Commission, include entries for all of the following information:
  - 94.1.e.1 The identity of the surveillance room personnel each time they enter or depart the surveillance room;
  - 94.1.e.2 The notification of any maintenance or repair of any gaming device or money handling equipment;
  - 94.1.e.3 Live table drop box exchanges;
  - 94.1.e.4 Transfers of cash, chips, cards, or dice;
  - 94.1.e.5 The beginning, end, and any interruptions of the soft count;
  - 94.1.e.6 An observed violation of this rule or of the licensee's internal control procedures;
  - 94.1.e.7 An observed criminal activity;
  - 94.1.e.8 Malfunction or repair of surveillance equipment;
  - 94.1.e.9 Any emergency activity;

94.1.e.10 Surveillance conducted on anyone or any activity that appears unusual, irregular, or illegal or appears to violate the Act or this rule;

94.1.e.11 Surveillance conducted at the request of the casino licensee, an employee of the casino licensee, a Commission employee, or the West Virginia State Police; and

94.1.e.12 Other notations considered necessary by surveillance room personnel or the Commission to ensure compliance with the Act and this rule; and

94.1.f Be retained for not less than ninety days.

94.2 A visitors log shall:

94.2.a Include the signature of anyone other than surveillance room personnel on duty, who accesses the surveillance room;

94.2.b Identify all visitors;

94.2.c State the department or agency the visitor represents;

94.2.d State the reason for access to the room;

94.2.e Provide the date and time of arrival and departure from the room; and

94.2.f Be retained not less than ninety days.

94.3 All surveillance room tapes, logs, and reports shall:

94.3.a Be retained in a manner to allow them to be easily retrieved by any of the following:

94.3.a.1 Date;

94.3.a.2 Location of activity; or

94.3.a.3 Type of activity; and

94.3.b Be furnished to the Commission or personnel of the West Virginia State Police assigned to the Commission immediately upon demand. The casino licensee may retain a copy of any tape, log, or report at the licensee's own expense.

**§179-8-95. Commission's casino premises office.**

95.1 The casino licensee shall provide free of any charge a secure and segregated suite at the casino premises for the exclusive use of the Commission. The suite shall be located proximate to the gaming floor.

95.2 The suite shall include the Commission surveillance room and shall be a size approved by the Commission based on the casino's size and Commission staffing needs within the casino. The live feeds from all surveillance cameras in the casino shall be sent to the Commission surveillance office. The Commission's surveillance office shall be able to use the dual feed without intervention of the casino surveillance office.

95.3 The Commission casino premises office shall have a secure telephone line that has a different number than the telephone line of the casino. The secure telephone line shall provide not less than two extensions and direct emergency lines as described in this rule.

95.4 The casino licensee shall provide parking in proximity to the casino for use of the Commission on a basis consistent with parking made available to supervisory personnel of the casino. The actual number of spaces shall be decided by the Commission.

**§179-8-96. Surveillance equipment; maintenance and malfunctions.**

The casino licensee shall inform an on-site Commission representative if surveillance equipment is expected to be out of service for more than thirty minutes due to maintenance or malfunction.

**§179-8-97. Emergency procedures.**

97.1 Before commencing table games operations, the licensee or applicant shall submit to the Commission, the West Virginia State Police and the fire department in closest proximity to the casino, an emergency action plan for the response to, and management of, fire and medical emergencies, terrorist activities and natural disasters in all areas of the casino.

97.1.a The plan shall include procedures for notification of the West Virginia Lottery, the West Virginia State Police, and/or fire or emergency medical personnel, and procedures for expedited and unimpeded access of the personnel into all areas of the casino in the event of a fire, medical, or other emergency.

97.1.b The plan shall also include an inspection schedule allowing the West Virginia personnel, the West Virginia State Police and local fire department personnel to inspect all areas of the casino for compliance with applicable fire and emergency laws, codes, and ordinances.

97.2 In an emergency, the safety of patrons and personnel is the first priority.

97.3 In an emergency if sufficient time exists, the casino licensee shall:

97.3.a Secure all records;

- 97.3.b Replace all recordings;
- 97.3.c Set recorders for slow speeds;
- 97.3.d Activate dedicated cameras and recording devices; and
- 97.3.e Set all other available cameras and recorders.

97.4 A licensee shall place cameras and recording devices in areas where unusual occurrences have been observed or where reason exists to believe unusual occurrences will occur.

**§179-8-98. Incident training required.**

98.1 The casino licensee shall require licensed casino surveillance and security personnel to undergo annual incident training.

98.2 Incident training shall deal with, but is not limited to, power failure, fire, violent acts by patrons, hostage sieges and acts of terrorism.

98.3 A casino licensee's incident training may be observed or joined by the West Virginia Lottery, the West Virginia State Police, and/or the local fire department.

**§179-8-99. Surveillance plan.**

99.1 The casino licensee shall submit a surveillance plan to the Commission not less than sixty days before the commencement of gaming operations. The plan shall include both of the following:

- 99.1.a A floor plan that shows the placement of all surveillance equipment; and
- 99.1.b A detailed description of the surveillance system and its equipment.

99.2 The casino licensee shall resubmit the surveillance plan with alterations required by the Director not less than thirty days before the institution of the alterations. Alterations recommended by Commission personnel may be implemented as agreed to by the licensee and the Commission.

99.3 The casino licensee shall submit all of the following alteration information:

- 99.3.a The details of the change, including the floor plan;
- 99.3.b The reason for the change; and
- 99.3.c The expected results of the change.

99.4 The casino licensee shall submit the surveillance plan to the Commission for approval. The casino licensee may commence operations if a surveillance plan is approved. The Commission shall advise the casino licensee of its decision in writing. The casino licensee shall not commence operations or institute alterations if the surveillance plan or alterations are disapproved.

**§179-8-100. Surveillance of employees.**

Any employee whose duties will be monitored in accordance with this rule shall be informed by the casino licensee before commencing his or her duties that his or her surveillance is a requirement of employment.

**§179-8-101. Communications equipment.**

The casino licensee shall assure that portable telephone or two-way radio communication equipment, or both, may be operated from all areas of the casino including, but not limited to, secure or underground areas.

**PART 7. SEIZURE, FORFEITURE AND DISCIPLINARY HEARINGS**

**§179-8-102. Commission license as revocable privilege; reasons for investigation of, or disciplinary action against, licensee; hearing procedure.**

102.1 A West Virginia Lottery Commission licensee has a continuing duty to maintain suitability for licensure. A Commission license does not create a property right, but is a revocable privilege contingent upon continuing suitability for licensure.

102.2 The Commission may initiate an investigation or a disciplinary action, or both, against a licensee if the Commission has reason to believe that at least one of the following provisions applies:

- 102.2.a The licensee is not maintaining suitability for licensure;
- 102.2.b The licensee is not complying with licensure conditions; or
- 102.2.c The licensee is not complying with the Act or this rule.

102.3 The Commission shall appoint a Commission member or an administrative hearing officer to conduct a hearing after a complaint has been filed and shall generally follow the *West Virginia Administrative Procedures Act*, W.Va. Code §29A-5-1 et seq., and the Commission's *Administrative Appeal Procedures Rule*, 179 CSR 2.

102.4 The person demanding a hearing shall give security for the cost of the hearing in the amount of three hundred dollars in the form of a certified check, a cashier's check or a money

order, which shall accompany the petition demanding a hearing. The fee of three hundred dollars may be waived by the Commission for good cause shown. By a uniform order of the Commission, the amount of the security may in future years be changed to another amount to reflect the actual costs of holding appeal hearings.

**§179-8-103. Special proceedings.**

103.1 The Commission may suspend the license issued to the casino without notice or hearing if the Commission determines that the safety or health of patrons or employees would be threatened by the continued operation of the casino or that the action is necessary for the immediate preservation of the integrity of casino gaming, the West Virginia Lottery, public peace, health, safety, morals, good order, or general welfare.

103.2 If the Commission determines that an emergency exists, then the Commission may suspend the casino's license, a supplier's license, an occupational license or a management services license after a hearing conducted by a hearing officer. The resulting order shall include a brief statement of the facts and the law that justifies the Commission's decision to take the specific action.

103.3 The suspension of the casino's license may continue until the Commission determines that the cause for the suspension of the license has been abated.

103.4 The Commission may revoke the casino's license if the Commission determines that the licensee has not made satisfactory progress toward abating the hazard to the safety or health of patrons or employees within a reasonable period of time.

**PART 8. ACCOUNTING RECORDS AND PROCEDURES**

**§179-8-104. Ownership records.**

104.1 The casino licensee shall keep and provide to the Commission upon request, all of the following records:

104.1.a If the casino or any controlling person of the licensee is a publicly traded corporation, a list of those executive officers of the publicly traded corporation whose ongoing and regular responsibilities relate or are expected to relate directly to the operation or oversight of the casino;

104.1.b If the casino licensee is a corporation, but is not a publicly traded corporation, then all of the following records:

104.1.b.1 A certified copy of its articles of incorporation and any amendments;

104.1.b.2 A certified copy of its bylaws and any amendments;

- 104.1.b.3 A certificate of good standing from the state of its incorporation;
- 104.1.b.4 If the corporation is operating as a foreign corporation in West Virginia, a certificate of authority from the West Virginia Secretary of State's Office authorizing it to do business in West Virginia;
- 104.1.b.5 A list of all current and former officers and directors for a period of two years before West Virginia licensure;
- 104.1.b.6 A certified copy of the minutes of all meetings of the stockholders and directors for a period of two years before West Virginia licensure;
- 104.1.b.7 A current list of all current stockholders, including the names of beneficial owners of shares held in street or other names;
- 104.1.b.8 The name of any company and a current list of all stockholders in the company, including the names of beneficial owners of shares held in street or other names, in which the corporation has a direct, indirect, or attributed interest;
- 104.1.b.9 A copy of the stock certificate ledger or its electronic equivalent;
- 104.1.b.10 A complete record of all transfers of stock to the extent available to the licensee or applicant;
- 104.1.b.11 A schedule of amounts paid to the corporation for the issuance of stock and other capital contributions and the dates the amounts were paid;
- 104.1.b.12 A schedule of all dividends distributed by the corporation; and
- 104.1.b.13 A schedule of all direct or indirect salaries, wages, and other remuneration, including prerequisites, paid during the calendar or fiscal year by the corporation to all officers, directors, and stockholders that have an ownership interest, at any time during the calendar or fiscal year, that is more than five percent of the outstanding capital stock of any class of stock; or
- 104.1.c If the casino licensee is a limited liability company, then all of the following records:
  - 104.1.c.1 A certified copy of the articles of organization;
  - 104.1.c.2 A certified copy of the operating agreement;
  - 104.1.c.3 A list of all current and former managers, including their names and addresses;

- 104.1.c.4 A list of the members, including all of the following information:
  - 104.1.c.4.A Names;
  - 104.1.c.4.B Addresses;
  - 104.1.c.4.C The percentage of interest in net assets, profits, and distributions of cash held or attributable to each;
  - 104.1.c.4.D The amount and date of each capital contribution of each member;
  - 104.1.c.4.E The date the interest was acquired; and
  - 104.1.c.4.F The method of determining a member's interest; and
- 104.1.c.5 A schedule of all withdrawals of company funds or assets by members;
- 104.1.c.6 A schedule of direct or indirect salaries, wages, and other remuneration, including prerequisites, paid to each member during the calendar or fiscal year;
- 104.1.c.7 A copy of the membership ledger or its electronic equivalent;
- 104.1.c.8 A complete record of all transfers of membership interests; and
- 104.1.c.9 A schedule of amounts paid to the company for the issuance of membership interests and other capital contributions and the dates the amounts were paid;
- 104.1.d If the casino licensee is a partnership, then all of the following records:
  - 104.1.d.1 A certified copy of the partnership agreement;
  - 104.1.d.2 A certificate of limited partnership of its domicile;
  - 104.1.d.3 A list of the partners, including all of the following information:
    - 104.1.d.3.A Names;
    - 104.1.d.3.B Addresses;
    - 104.1.d.3.C The percentage of interest in net assets, profits, and losses held by each partner;

104.1.d.3.D The amount and date of each capital contribution of each partner;

104.1.d.3.E The date the interest was acquired; and

104.1.d.3.F The description of the form of the person's partnership interest, for example, limited partner; or

104.1.e If the casino licensee is a sole proprietorship, then all of the following records:

104.1.e.1 A schedule showing the name and address of the proprietor and the amount and date of his or her original investment;

104.1.e.2 A schedule of the dates and amounts of subsequent additions to the original investment and any withdrawals; and

104.1.e.3 A schedule of direct or indirect salaries, wages, and other remuneration, including prerequisites, paid to the proprietor during the calendar or fiscal year.

#### **§179-8-105. Accounting records**

105.1 The casino licensee shall maintain complete, accurate, legible, and permanent records of all transactions pertaining to its revenues and expenses, assets, liabilities, and equity in conformance with generally accepted accounting principles. The Commission may direct the casino licensee to alter the manner in which the records are maintained if the licensee's records are not in accordance with generally accepted accounting principles or if the records are not in sufficient detail.

105.2 The accounting records shall be maintained using a double entry system of accounting with transactions recorded on the accrual basis and supported by detailed subsidiary records.

105.3 The detailed subsidiary records shall include, at a minimum, all of the following:

105.3.a Detailed general ledger accounts identifying all revenue, expenses, assets, liabilities, and equity for the casino licensee;

105.3.b A record of all investments, advances, loans, and accounts receivable balances due the casino;

105.3.c A record of all loans and other accounts payable by the casino licensee;

105.3.d A record of all accounts receivable written off as uncollectible by the casino licensee;

- 105.3.e Journal entries prepared by the casino licensee;
- 105.3.f Tax work papers used in preparation of any state or federal tax return;
- 105.3.g Records that identify table drop, table win, and percentage of table win to table drop for each live game and records accumulated for each type of live game by day or by another accounting period approved by the Director;
- 105.3.h Records supporting the accumulation of the costs for complimentary services and items. A complimentary service or item provided to patrons in the normal course of a casino business shall be recorded at an amount based upon the full retail price normally charged for the service or item;
- 105.3.i Records that identify the purchase, receipt, and destruction of gaming chips from all sources;
- 105.3.j Records required to fully comply with all the federal financial record-keeping requirements enumerated in 31 Code of Federal Regulations, part 103;
- 105.3.k Records required by the casino licensee's internal control system;
- 105.3.l Work papers supporting the daily reconciliation of cash accountability;  
and
- 105.3.m Other records that the Commission requires to be maintained.

105.4 If the casino licensee fails to maintain the records used by it to calculate the adjusted gross receipts from the operation of racetrack table games, the Commission may compute and determine the amount upon the basis of an audit conducted by the Commission using available information.

**§179-8-106. Standard financial and statistical records.**

106.1 The casino licensee, unless specifically exempted by the Commission, shall file monthly, quarterly, and annual reports of financial and statistical data in a format prescribed by the Commission. Reports prepared on Microsoft *Word*<sup>®</sup> and Microsoft *Excel*<sup>®</sup> may be emailed to [casinoreports@wvlottery.com](mailto:casinoreports@wvlottery.com) to comply with the reporting requirements of this rule. As technology changes and improves, the Commission may by interpretive rule specify another means of reporting.

106.2 The Commission shall periodically prescribe a set of standard reporting forms and instructions to be used in filing monthly, quarterly, and annual reports.

106.3 The Commission shall review and modify or approve each casino's uniform chart of accounts, including account classifications, in order to ensure consistency, comparability, and appropriate disclosure of financial information.

106.4 Annual reports shall be based on the licensee's fiscal year. Quarterly reports shall be based on the licensee's fiscal quarters.

106.5 Monthly reports shall be based on calendar months unless another accounting period is approved by the Commission. Quarterly and monthly reports shall contain a cumulative year-to-date column in this rule to facilitate analysis.

106.6 The reports required to be filed in this rule shall be sworn to and signed by the following entities:

106.6.a If the reports are from a corporation, then the chief executive officer and one of the following individuals:

106.6.a.1 The chief financial officer;

106.6.a.2 The treasurer;

106.6.a.3 The comptroller;

106.6.b If the reports are from a limited liability company, then by a manager;

106.6.c If the reports are from a partnership, then by a general partner and financial director;

106.6.d If the reports are from a sole proprietorship, then by the proprietor; or

106.6.e If the reports are from any other form of business association, then by the chief executive officer.

106.7 The required filing dates for reports are as follows:

106.7.a A monthly report is due on the thirteenth calendar day of the following month;

106.7.b A quarterly report is due on the fifteenth calendar day of the second month following the end of the quarter; and

106.7.c An annual report is due on the fifteenth calendar day of the third month following the end of the year.

106.8 If there is a termination or suspension of the casino license, a voluntary or involuntary change in the company, or a material change in ownership, then the casino licensee shall file an interim quarterly report as of the date the event occurs, unless the event has already been disclosed in a regular quarterly report or unless exempted by the Commission. The filing date is thirty calendar days after the date the event occurs.

106.9 An adjustment that results from the quarterly and annual audits shall be recorded in the accounting records. If an adjustment was not reflected in the casino licensee's quarterly or annual reports and if the West Virginia Lottery concludes that the adjustment is significant, then it may require a revised report from the casino licensee. The revised filing is due within thirty calendar days after written notification to the casino licensee.

**§179-8-107. Special audits and licensee annual compliance reports.**

107.1 To assure the integrity of gaming and compliance with the Act and this rule, the Commission may require a special audit of the casino licensee to be conducted by West Virginia Lottery personnel, by an independent certified public accountant who is, or whose firm is, licensed in West Virginia, or by a nationally recognized accounting firm. The Commission shall establish the scope, procedures and reporting requirements of a special audit.

107.2 The licensee shall prepare and submit annual compliance reports in a manner and form prescribed by the Commission. The annual compliance report shall address all of the following areas:

107.2.a Compliance with procedures to ascertain that adjusted gross receipts are determined and state taxes paid, in conformity with the Act and this rule;

107.2.b Compliance with Commission-approved internal control procedures, accounting procedures, credit procedures, dispute procedures, and Commission-imposed security and safety requirements;

107.2.c A material deviation from the casino licensee's approved internal control procedures, accounting procedures, credit and dispute procedures, and Commission-imposed security and safety requirements;

107.2.d Corrective action taken by the licensee to resolve deficiencies observed in subdivisions (a) to (c) of this subsection; and

107.2.e Other matters required by the Commission to measure the licensee's compliance with the Act and this rule.

107.3 A casino licensee that is a public reporting company under the Securities and Exchange Act of 1934 shall submit a copy of all reports required by the Securities and Exchange Commission to the Director in a format prescribed by the Commission. The reports shall be due on the same filing dates as required by the Securities and Exchange Commission.

107.4 The casino licensee shall bear the expense of preparing an audit which is required by this rule and which is performed by an independent certified public accountant. Qualified personnel of the casino licensee shall prepare compliance reports and the casino licensee shall bear the expense of preparing the compliance reports.

107.5 The reporting year-end of the holder of the casino license shall be the licensee's fiscal year.

**§179-8-108. Accounting controls within the cashier's cage.**

108.1 The assets for which a cashier is responsible shall be maintained on an impress basis. At the end of each shift, the cashiers assigned to the outgoing shift shall record, on a cashier's count sheet, the face value of each cashier's cage inventory item counted and the total of the opening and closing cashier's cage inventories and shall reconcile the total closing inventory to the total opening inventory. The cashiers shall sign the completed cashier's count sheet attesting to the accuracy of the information contained on the cashier's count sheet.

108.2 At the conclusion of each day, at a minimum, a copy of the cashier's count sheet and related documentation shall be forwarded to the accounting department.

108.3 All accounting controls within the cashier's cage shall conform to the approved internal control system.

**§179-8-109. Exchange of checks submitted by gaming patrons; credit.**

Except where provided in sections one hundred thirteen through one hundred twenty-five of this rule, the casino licensee shall not make a loan, or otherwise provide credit to an individual to enable an individual to take part in gaming. The failure to deposit a negotiable instrument for collection by the next banking day after presentment by the patron is considered an extension of credit.

**§179-8-110. Handling cash at gaming tables.**

111.1 A cash wager shall not be allowed to be placed at any gaming table.

111.2 The cash shall be converted to chips before a wager is accepted.

111.3 A licensed gaming employee who receives any currency or cash equivalents from a patron at a gaming table shall promptly place the currency or cash equivalent in the table's drop box.

**§179-8-111. Tips or gratuities.**

111.1 A table gaming employee shall not accept currency as a tip or gratuity from any patron. This subsection does not apply to waiters, waitresses, bartenders, or other food or beverage servers in the table gaming area of the casino.

111.2 A casino employee who holds a level one occupational license shall not solicit or accept a tip or gratuity directly from a player or patron of the casino. An key person shall not solicit a tip or gratuity.

111.3 All of the following provisions apply to tips and gratuities given to a dealer:

111.3.a A dealer shall immediately deposit tips and gratuities in a locked box reserved for that purpose.

111.3.b If non-value chips are received at a roulette table, the dealer shall not remove the marker button indicating the specific value of the chips from the slot or receptacle attached to the outer rim of the roulette wheel until after a dealer, in the presence of a supervisor, has converted the non-value chips into value chips. The value chips shall be immediately deposited in a transparent locked box reserved for deposit and storage of tips and gratuities to the dealer;

111.3.c Tips and gratuities shall be accounted for by a recorded count conducted by not less than two casino employees designated by the casino licensee; and

111.3.d Tips may be pooled among employees including level one licensees at the licensee's discretion.

**§179-8-112. Weekly tax return; deposits of privilege tax.**

112.1 The casino licensee shall, by each Wednesday, submit electronically to the Commission a privilege tax return for the adjusted gross receipts from table gaming covering the previous calendar (Sunday through Saturday) week. The casino licensee shall complete the Commission's prescribed electronic format and shall email the return to [casinotaxreturn@wvlottery.com](mailto:casinotaxreturn@wvlottery.com). As technology changes and improves, the Commission may by interpretive rule specify another means of reporting.

112.2 The casino licensee shall, by each Wednesday, by electronic funds transfer, pay the privilege tax amount contained in the corresponding tax return emailed to the Commission as required by subsection one of this section.

112.3 The casino licensee shall maintain a separate depository account for receipt and disbursement of table games adjusted gross receipts. The casino licensee shall provide to the Commission weekly and other periodic reconciliations of funds deposited into this account and disbursements made from this account including the weekly transfer from the casino licensee to the commission.

## PART 9. CREDIT

### §179-8-113. Credit extension procedures; establishment of procedures.

113.1 The casino licensee may extend credit to a patron only in the manner provided in its credit procedures approved by the Commission. The casino licensee is responsible for establishing policies and procedures to extend credit to patrons. The policies and procedures shall provide that each credit transaction is promptly and accurately recorded.

113.2 The procedures proposed by a casino licensee shall ensure that:

113.2.a Each credit transaction is promptly and accurately recorded in appropriate credit records; and

113.2.b Credit may be extended only in a commercially reasonable manner considering the assets, liabilities, prior payment history, and income of the patron.

113.3 The casino licensee shall not extend credit beyond the approved credit line limit approved by the Commission.

113.4 The casino licensee shall provide to the Director a monthly report detailing credit issued, an aging of outstanding credit amounts, and collection activities taken with respect to aging accounts and accounts written off as uncollectible.

113.5 A credit instrument is identical to a personal check and may be deposited in, or presented for payment to, a bank or other financial institution where the patron maintains an account.

113.6 Credit instruments issued at a gambling table shall affect adjusted gross receipts in the following ways:

113.6.a Each credit instrument issued at a gaming table is evidenced with an issuance document inserted into the drop box and becomes an increase to the table drop;

113.6.b Each redeemed credit instrument at a gaming table will be evidenced by a redemption document inserted into the drop box and becomes a decrease to the table drop; and

113.6.c Chips that are issued by the cage for cash or the issuance of credit instruments do not increase table drop.

113.7 Procedures approved by the Commission for the extension of credit by the casino licensee to a patron shall control and regulate the issuance of credit directly by the casino to a gaming patron. The casino licensee shall submit to the Commission its proposed procedures for extending credit which shall at a minimum:

113.7.a Ensure that markers issued by the casino licensee are issued only in accordance with the specific or general authorization of this rule;

113.7.b Ensure that the functions, duties, and responsibilities of the casino licensee's employees involved in the extension of credit are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel;

113.7.c Ensure that a casino employee is not in a position to perpetuate and conceal errors or irregularities in the normal course of his or her duties; and

113.7.d Ensure that procedures are conducted with integrity and in accordance with the Act and this rule.

**§179-8-114. Submission of written extension of credit procedures to the Commission.**

114.1 The casino licensee shall submit policies and procedures for extending credit to the Commission at least thirty days before extending credit to any patron.

114.2 The Commission may approve, approve with modification or disapprove any portion of the policies or procedures concerning the extension of credit. If the Commission disapproves a policy or procedures concerning the extension of credit, then the Director shall notify the casino licensee, in writing, of the disapproval.

114.3 Access to the credit information, outstanding credit instruments, and credit instruments that have been written off is restricted to occupational licensees who require access and who are authorized by management to have access.

**§179-8-115. Amendments to procedures for extending credit.**

115.1 Unless otherwise authorized by the Commission, an amendment to a portion of the procedures for extending credit shall be submitted to the Commission not less than forty-five days before using the procedures for extending credit.

115.2 The Commission may approve, approve with modification or disapprove any portion of an amendment to the policies or procedures concerning the extension of credit. If the Commission disapproves an amendment, then the Commission shall notify the casino licensee, in writing, of the disapproval.

**§179-8-116. Procedures for extending credit.**

116.1 The licensee shall propose credit procedures which shall, at a minimum, include the following:

116.1.a Identification of the information required from a patron applying for credit;

116.1.b A description of procedures for verification of the information obtained from a patron;

116.1.c Procedures for establishing the credit limit for a patron, including specific minimum credit-worthiness standards a patron requesting credit must meet, such as a minimum credit rating number, and the casino maximum credit limit for a patron;

116.1.d Procedures for the computerized or manual issuance of markers:

116.1.e A designation of the licensed occupational positions that are authorized to issue markers;

116.1.f A description of where on the premises markers can be issued.

116.1.g A description of the marker and the information and signatures required to authorize the marker;

116.1.h A description of the procedures for processing payments against credits received by the casino licensee;

116.1.i Procedures to be followed in connection with accepting front money deposits;

116.1.j Procedures to be followed in connection with cashing checks or drafts by the casino licensee, including identifying the types of checks that may be cashed;

116.1.k Procedures to be followed in the handling of returned checks; and

116.1.l Procedures for the collection of past due markers and returned checks, and procedures for the write-off of past due markers and returned checks.

**§179-8-117. Credit reporting to the Commission.**

117.1 The casino licensee shall provide to the Commission a monthly report detailing, at a minimum, all of the following:

117.1.a Outstanding credit;

117.1.b Checks returned and held;

117.1.c Collection activities taken; and

117.1.d Settlement of disputed items.

**§179-8-118. Verification of credit.**

118.1 The casino licensee may verify a patron's outstanding indebtedness, as required by this rule, by contacting a consumer credit bureau that is reasonably likely to possess information concerning the patron or a casino credit bureau, or both, to determine whether the patron has any liabilities or if there is any derogatory information concerning the patron's credit history.

118.2 A credit bureau contact shall be considered a verification of the outstanding indebtedness provided by the patron. If a credit bureau contact is not immediately possible, then the casino licensee may use an alternative source that has made the required contact. The casino licensee shall record the source of verification and the method by which the verification was performed in the patron's credit file.

118.3 If neither credit bureau has information relating to a patron's outstanding indebtedness, then the casino licensee shall record this information in the patron's credit file.

**§179-8-119. Issuance of markers:**

119.1 The casino licensee shall establish procedures for the computerized or manual issuance of markers, including, at a minimum, all of the following:

119.1.a A designation of the licensed occupational positions that are authorized to issue markers and a description of their duties;

119.1.b A description of where markers can be issued;

119.1.c A description of the marker and the information and signatures required to authorize the marker. All of the following provisions specify requirements for a marker:

119.1.c.1 The casino licensee shall submit the form of its markers to the Commission prior to its use;

119.1.c.2 The form must be a three-part, sequentially-numbered form;

119.1.c.3 The marker shall include, but not be limited to, all of the following information:

119.1.c.3.A The patron's name and casino account number;

119.1.c.3.B The dollar amount of the marker;

119.1.c.3.C The casino marker number;

119.1.c.3.D The current time and date;

119.1.c.3.E The required signatures; and

119.1.c.3.F A description of the term of repayment, including the rate of interest, if any;

119.1.d A description of the distribution of each part of the marker;

119.1.e Verification of the patron's identity through identification credentials before the issuance of the marker;

119.1.f Verification of available credit;

119.1.g A description of the recording of the credit transaction;

119.1.h A description of accountability and control over the markers; and

119.1.i Other information considered necessary by the Commission to ensure compliance with this rule.

119.2 The casino licensee shall maintain a computer record and computerized log identifying the information in subdivisions 120.1.a through 120.1.i of this rule for not less than the current year and the two preceding years.

**§179-8-120. Receipt of payments.**

120.1 The casino licensee shall establish policies and procedures approved by the West Virginia Lottery in accordance with this rule to ensure that all payments received on outstanding credit instruments are recorded in a timely fashion. The procedures shall, at a minimum, include all of the following:

120.1.a A description of the procedure for processing payments received by the casino licensee in any manner;

120.1.b Requirements for the consolidation of markers;

120.1.c A detailed description of the distribution of all parts of redeemed and consolidated markers and redemption vouchers; and

120.1.d A detailed allocation of principal and interest on each payment made, if any.

**§179-8-121. Front money deposits.**

121.1 The casino licensee shall establish procedures approved by the Commission in accordance with this rule in connection with front money deposits. The casino licensee shall

establish policies and procedures approved by the Commission in accordance with this rule to ensure that all applicable currency transaction reporting requirements will be enforced in accordance with applicable state and federal law.

121.2 Any of the following may be accepted from patrons for the purpose of customer deposits:

- 121.2.a Cash or a cash equivalent;
- 121.2.b Value chips issued by the casino licensee; and
- 121.2.c Tokens issued by the casino licensee.

121.3 Deposits or withdrawals shall be documented on a voucher that is not less than a 2-part, sequentially-numbered form. The voucher shall be completed by the casino cage cashier and shall include, at minimum, all of the following information:

- 121.3.a The patron's name and signature;
- 121.3.b The date of receipt or disbursement;
- 121.3.c The amount of deposit;
- 121.3.d The type of deposit; and
- 121.3.e The casino cashier's signature.

121.4 The casino licensee shall provide, to the Commission, a monthly report detailing, at a minimum, all of the following:

- 121.4.a Outstanding credit;
- 121.4.b Checks returned and held;
- 121.4.c Collection activities taken; and
- 121.4.d Settlement of disputed items.

121.5 All of the following checks shall be deposited not later than the business day after the day the checks are received or dated:

- 121.5.a Cashier's checks;
- 121.5.b Money orders;
- 121.5.c Credit card advance checks;

- 121.5.d Traveler's checks; and
- 121.5.e Wire transfer service checks.

121.6 Personal checks shall be deposited not later than the business day after the day the checks are received or dated, unless otherwise agreed to by the casino licensee and the patron.

**§179-8-122. Check cashing.**

122.1 The casino licensee shall establish policies and procedures approved by the Commission in accordance with this rule in connection with cashing checks or drafts by the casino licensee. Only the following types of checks may be cashed by the casino licensee:

- 122.1.a Personal checks;
- 122.1.b Drafts;
- 122.1. c Cashier's checks;
- 122.1.d Money orders;
- 122.1.e Credit card and debit card advance checks;
- 122.1.f Traveler's checks; and
- 122.1.g Wire transfers and other kinds of checks approved by the Commission.

122.2 The casino licensee shall establish check-cashing privileges and limits that shall, at a minimum, incorporate the procedures established in this rule.

122.3 When checks are cashed for a patron, the casino licensee shall:

122.3.a Examine the patron's picture identification and compare the signature on the identification credential to the signature on the check to ensure agreement. If the signatures do not match, the casino licensee shall not extend credit to the patron;

122.3.b Immediately stamp the check "for deposit only;"

122.3.c Date and time stamp the check;

122.3.d Initial the check; and

122.3.e Count out, in full public view and in the view of the surveillance camera, the funds requested by the patron.

122.4 If a patron's personal check is cashed, then the cashier shall perform the procedures outlined in subsection 119.3 of this rule and shall:

122.4.a Record the picture identification number if the check is under \$500.00 and check-cashing privileges have not been established by the patron;

122.4.b Determine if the patron's available credit is sufficient to cover the amount of the personal check, if applicable;

122.4.c Refuse to cash a patron's personal check if the patron has a balance outstanding to the casino licensee for more than thirty days due to checks previously cashed by the casino licensee; and

122.4.d Hold a personal check against established credit lines for the earlier of seven days or the date that the check cleared the financial institution upon which it was drawn.

**§179-8-123. Handling of returned checks.**

123.1 The casino licensee shall establish policies and procedures approved by the Commission in the same manner as the procedures for extension of credit for the handling of returned checks.

123.2 A returned check shall be received and documented on a returned check log by a department independent of both the casino cage and the credit department. If the licensee uses a check-cashing service, then the licensee shall establish a procedure for the retention of copies of returned checks.

123.3 The casino licensee shall establish procedures for collecting and recording checks returned to the casino licensee after deposit, including redeposit procedures.

123.4 The casino licensee's collections department shall maintain a continuous record of all returned checks. The records shall contain all of the following information:

123.4.a The original date of the check;

123.4.b The name and address of the drawer of the check;

123.4.c The amount of the check;

123.4.d The date the check was dishonored; and

123.4.e The date or dates and amount or amounts of any collections received on the check after being returned by a bank.

123.5 A returned check is considered the issuance of credit and shall be handled in accordance with the collection of credit.

123.6 The casino licensee shall describe its procedures for notifying the casino cage, credit departments, or the equivalent of credit departments of returned checks and of the prohibition from granting further credit to patrons whose checks have been returned and remain unsatisfied.

**§179-8-124. Collection of past due accounts.**

The casino licensee shall establish policies and procedures for the collection of past due markers and returned checks. The procedures shall be approved by the Commission in the same manner as the extension of credit.

**§179-8-125. Write-off of past due accounts.**

125.1 The casino licensee shall establish policies and procedures for the write-off of past due markers and returned checks. The procedures shall be approved by the Commission. The procedures shall, at a minimum, shall:

125.1.a Establish a write-off committee; and

125.1.b Authorize write-off by the write-off committee.

**PART 10. EXCLUSION OF PERSONS**

**§179-8-126. Exclusion list; duty to exclude.**

126.1 Entry into the casino shall be denied to any person who is excluded under this rule. If the Director places a person on the Commission's exclusion list, the person is prohibited from entering the casino until a determination is made by the Commission or a court to the contrary.

126.2 The casino licensee shall exclude or eject any excluded person from its premises if the casino licensee or the licensee's agents know or reasonably should know that the person is on the Commission's exclusion list.

126.3 The casino licensee shall inform the Commission, in writing, of the names of persons that it knows or should know who meet the criteria for placement on an exclusion list and the reason the person meets the exclusion criteria.

126.4 This rule does not preclude the casino licensee from ejecting or barring a person from its casino for reasons considered necessary by the licensee. The casino licensee may seek to have a person it has ejected or barred from its premises placed on the Commission exclusion list.

**§179-8-127. Distribution and availability of exclusion lists.**

127.1 The Commission shall maintain a list of persons to be ejected or excluded from the casino. The exclusion list is a public record. The list may be distributed to law enforcement agencies. All of the following information, to the extent known, shall be provided for each excluded person:

127.1.a The person's full name and date of birth and all aliases;

127.1.b A physical description of the person;

127.1.c The effective date the person's name was placed on the exclusion list;

127.1.d A photograph of the person, if available;

127.1.e The person's occupation and current home and business addresses; and

127.1.f Any other information considered necessary by the Director to facilitate identification of the person placed on the exclusion list.

**§179-8-128. Criteria for exclusion and placement on exclusion list.**

128.1 The Director may place a person on the exclusion list pending a hearing if any of the following provisions apply to the person:

128.1.a The person has been convicted of a felony in any jurisdiction or has been convicted of a misdemeanor in any jurisdiction involving gaming theft, dishonesty, or fraud;

128.1.b The person has violated the Act or this rule;

128.1.c The person has performed any act, or has a reputation, that would adversely affect public confidence and trust in the integrity of gaming;

128.1.d The person is included on any valid and current exclusion list from another jurisdiction in the United States; and

128.1.e The person has realized that he or she has a compulsive gaming disorder and has requested in writing to be excluded from the casino and/or all of the state's four pari-mutuel racetracks.

**§179-8-129. Procedure for entry of names on exclusion list.**

129.1 Upon a determination that a person comes under any of the criteria for exclusion, the person may be subject to exclusion and the Director shall file a notice of exclusion. The notice shall include all of the following information:

129.1.a The identity of the person;

129.1.b The nature and scope of the circumstances or reasons that the person should be placed on the exclusion list;

129.1.c The names of potential witnesses; and

129.1.d A recommendation as to whether the exclusion or ejection should be permanent. The notice shall also inform the person of the availability of a hearing before the Commission.

129.2 A person excluded from the casino shall make a request for a hearing within thirty days from the date the notice of exclusion was served.

129.3 If a person is excluded or ejected from the casino, then the person is prohibited from further entering the casino until a determination is made by the Commission on the merits of a filed notice of exclusion or a requested hearing. If a determination by the Commission is appealed, then the exclusion shall continue until the judicial review is completed unless otherwise ordered by the court.

129.4 The name of a person on the exclusion list shall be removed from the list if the Commission or a subsequent judicial review finds in favor of an excluded person. The excluded person's exclusion shall be terminated as of the date of the decision of the Commission or the court. The excluded person's name shall remain on the exclusion list if the finding is against the excluded person. The excluded person's name shall remain on the exclusion list if a hearing is not requested.

129.5 The Director shall set the term of the temporary exclusion when the notice of exclusion provides for a temporary exclusion. The Director may consider the recommendation of the West Virginia Lottery staff when making this time determination. A temporary exclusion shall not be less than one hundred eighty days. A temporary exclusion shall apply only to a person excluded or ejected for disruptive conduct. All other exclusions shall be permanent.

#### **§179-8-130. Petition for removal from exclusion list.**

130.1 A person who has been placed on any exclusion list may petition the Commission, in writing, and request that his or her name be removed from the exclusion list.

130.2 The provisions of West Virginia Code §29A-5-1 et seq. and the West Virginia Lottery's *Administrative Appeals Procedures* rule 179CSR2 apply to protests of exclusion under this section.

### **PART 11. DISPUTE AND APPEAL PROCEDURES**

#### **§179-8-131. Patron dispute process.**

131.1 A patron shall submit the complaint within five calendar days of the incident that led to the patron dispute. The West Virginia Lottery representative shall provide a copy of the complaint to the casino licensee at the same time that the representative submits the complaint copy to West Virginia Lottery headquarters.

131.2 The casino licensee shall attempt to resolve all patron disputes and has a period of ten business days to investigate a patron complaint and resolve the dispute.

131.3 If the casino licensee and the patron cannot resolve the dispute, then the licensee shall advise the patron of the patron's right to file a complaint form with the Commission. The complaint may be received by a West Virginia Lottery employee in the casino, who will forward a copy of the complaint to West Virginia Lottery headquarters. The casino licensee shall provide a patron with a complaint form upon request.

131.4 A complaint shall contain, at a minimum, all of the following information:

131.4.a The name, address, and telephone number of the patron;

131.4.b A summary of the nature of the patron complaint, including the date and time on which the incident leading to the dispute occurred;

131.4.c The physical location and/or identity of the gaming table or gaming device where the complaint arose, if applicable;

131.4.d A list of the names, if known, of any occupational licensees who were involved in, or a witness to, the incident that led to the patron dispute;

131.4.e The name, address, and telephone number, if known, of any other witnesses to the incident that led to the patron dispute;

131.4.f A summary of the casino licensee's attempt to resolve the patron dispute;  
and

131.4.g Any other information considered necessary by the Director or the Commission.

131.5 If possible, the West Virginia Lottery representative shall interview the complaining patron in the West Virginia Lottery office in the casino at the time the patron submits his or her complaint. During that interview, the representative may retrieve and view any available recorded security images for a more detailed understanding of the alleged incident.

131.6 The casino licensee shall submit an answer to the complaint to the Commission in writing within fourteen business days of receiving a copy of the patron's complaint. The casino licensee shall provide a copy of the answer to the complaining patron at the same time that the casino licensee submits the answer to the West Virginia Lottery.

131.7 Until the Commission has released the recorded images that are connected to the complaint, the casino licensee shall not destroy, erase or record over the images.

**§179-8-132. Investigation; possible disciplinary action.**

The Commission shall determine if a patron dispute requires investigation. If the Commission determines that an investigation is necessary, then the West Virginia Lottery security division shall conduct the investigation. If it is determined that the casino licensee or an occupational licensee violated the Act or this rule, then the Commission may initiate disciplinary action.

**§179-8-133. Appeals by license applicants, license holders and patrons.**

133.1 A person who appeals an adverse decision or action by the Commission or the Director pursuant to section seventeen of the Act shall give security for the cost of the hearing in the amount of three hundred dollars in the form of a certified check, cashier's check or money order, which shall accompany the petition demanding a hearing.

133.2 The Commission may from time to time increase or decrease the amount of security by interpretive rule or Commission order, giving consideration to the actual average cost of holding an administrative hearing.

133.3 The fee may be waived by the Commission or Director for good cause shown.

**PART 12. TRANSITIONAL PROVISIONS**

**§179-8-134. Gaming tables purchased on behalf of the Commission for training of Commission and racetrack personnel.**

134.1 The Council for Community and Technical College Education, and specifically Blue Ridge Community and Technical College, West Virginia Northern Community College and West Virginia State Community and Technical College, are not eligible for table gaming licenses issued by the State Lottery Commission; nevertheless, the Council and its colleges may operate as agents of the State Lottery Commission under a mutual agreement that allows keeping and exhibiting gaming tables for training purposes only.

1.34.2 A pari-mutuel racetrack in West Virginia that is licensed to operate racetrack video lottery games and that plans to offer table gaming subject to a successful local option election and subsequent licensing, may purchase gaming tables and related supplies and equipment at its expense for the Blue Ridge Community and Technical College, West Virginia Northern Community College and/or West Virginia State Community and Technical College for training. The racetrack shall have the items shipped directly to facilities owned or rented by the community and technical college.

134.3 All gaming tables and related supplies and equipment shall become the property of the community and technical colleges and may not thereafter be given or reverted to the donating racetrack.

134.4 Any gaming table and gaming supplies no longer needed by a community college shall be transferred to the control of the Commission.

134.5 Any casino licensee shall provide one gaming table for the training use of the Commission at Commission headquarters.