REGULATION 5: OPERATION OF GAMING ESTABLISHMENTS

PROPOSED AMENDMENTS TO REGULATION 5

PURPOSE: In accordance with NRS 463.145, NRS 463.150 and NRS 463.750, to amend Regulation 5: 1) to provide for the use of the State Gaming Control Board's (Board) online gaming employee registration system to register gaming employees and to make subsequent changes to gaming employee registration records as necessary; 2) to allow for the payment of fees relating to gaming employee registrations via credit or debit card through the Board's online gaming employee registration system; 3) to remove subsection 2 of Regulation 5.101 relating to the expiration of work permits; 4) to replace provisions that require notice relating to the adoption or revision of any casino surveillance standards be made via publication in various newspapers with requirements that such adoption or revision be noticed instead on the Board's Internet website(s) and to replace provision that requires the Board to mail copies of the proposed casino surveillance standards with a provision that only requires that the Board send notice of the revisions and/or proposed revisions with a referral to the Board's internet website to obtain a copy of the documents containing the revisions and/or proposed revisions; 5) to define additional types of service providers and include such persons within the overall definition of "service provider" requiring them to be licensed; 6) to clarify that the level of investigation conducted by the Board of a service provider is divided into three classes based on the significance of the activities to be provided and the regulatory risk of the service provider and to clarify which class of investigation specific types of service providers are subject to; 7) to provide the chairman with the discretion to investigate and review applicants for a service provider license that is subject to a class 2 investigation as he deems necessary but that is at a level less than a class 1 investigation and more than a class 3 investigation; 8) to clarify provisions applicable to marketing affiliate service providers; 9) to clarify that a class 3 service provider application shall include an affirmative statement that the applicant consents to payment of all application and investigative fees related to the application for an interactive gaming service provider license in accordance with Regulation 4.070 should such application be activated; 10) to remove provisions specific to the payment of application and investigative fees for a class 3 service provider license given that reference is made to Regulation 4.070 where such fees are addressed; 11) to require service providers pay an annual license fee; and 12) to take such additional action as may be necessary and proper to effectuate these stated purposes.

(Draft Date July 25, 2012)

[~~Deleted~~]/Added Language

5.100 Definitions. As used in Regulations 5.100 to 5.109, inclusive:

1. "Applicant" means a person who has submitted an application for registration or renewal of registration as a gaming employee and, unless

otherwise indicated, also means a person who has filed a change of employment notice.

2. "Application for registration" means an application package**, in electronic or paper form,** containing all the components of a complete application for registration or renewal of registration as a gaming employee consisting of:

(a) The **online or paper** form for application;

(b) Two sets of fingerprints of the applicant or, if applicable, proof that the applicant's fingerprints were submitted electronically or by another means to the Central Repository for Nevada Records of Criminal History;

(c) The fee or a voucher guaranteeing payment of the fee for processing the application for registration; and

(d) The statement prescribed in subsections 1 and 2 of NRS 463.3351.

Unless otherwise indicated, an "application for registration" also means the change of employment notice prescribed by the board**, in electronic or paper form**.

3. "Form for application" means the application form prescribed by the board for registration or renewal of registration as a gaming employee and, unless otherwise indicated, also means the change of employment notice form prescribed by the board**, in electronic or paper form**.

5.101 Registration required.

[~~1.~~ **]**No person shall be employed as a gaming employee unless such person is temporarily registered or registered as a gaming employee in accordance with NRS 463.335 and these regulations.

[~~2. Any person who holds a valid work permit issued before January 1, 2004 shall be deemed to be registered as a gaming employee on January 1, 2004, and the registration of such person shall be deemed to expire on the expiration date set forth on the work permit, unless objected to by the board, suspended or revoked. If there is no expiration date set forth on the work permit, the registration of such person shall be deemed to expire on the person's birthday in 2005, unless objected to by the board, suspended or revoked.~~**]**

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5.105 Duties of licensee.

1. A nonrestricted licensee shall not knowingly employ any person as a gaming employee unless such person is temporarily registered or registered as a gaming employee. A licensee shall check, and may rely on, the system of records maintained by the board to verify the temporary registration, registration or eligibility of a person seeking employment as a gaming employee with such licensee.

2. A licensee shall only access the system of records after a person applies for a position as a gaming employee solely to determine whether the person is registered, temporarily registered, or subject to objection, suspension or revocation**, or to initiate an application transaction in the board's online gaming employee registration system**. A licensee shall maintain written

documentation establishing that it received an application for employment from a person for a position as a gaming employee prior to accessing the system of records and shall retain such documentation for at least 5 years.

3. Before a licensee grants any employee access to the system of records maintained by the board, it shall provide the board with the name, social security number and date of birth of such employee. Upon the termination of employment of such employee or the reassignment of such employee to a position that no longer requires him to access the system of records, the licensee shall immediately notify the board of such termination or reassignment. The information contained within the system of records is confidential and must not be disclosed by such employee or the licensee.

4. If a licensee determines, after accessing the system of records maintained by the board, that a person seeking employment as a gaming employee with such licensee is not temporarily registered or registered as a gaming employee, and is not subject to objection, suspension or revocation, the licensee shall provide the person with a form for application, the statement prescribed in subsections 1 and 2 of NRS 463.3351 and instruct the person to:

(a) Complete the form for application and the statement prescribed in subsections 1 and 2 of NRS 463.3351;

(b) Obtain two complete sets of fingerprints;

(c) **Complete an online payment by credit or debit card through the board's online gaming employee registration system or [**~~O~~**]o**btain a money order, cashier's check or voucher in the amount prescribed by the board in accordance with NRS 463.335(5); and

(d) Unless otherwise prescribed by the chairman, **complete the application for gaming employee registration online via the board's online gaming employee registration system or** return **[**~~the~~**] a completed paper** application for registration to the licensee in a sealed envelope, or in any other confidential manner permitted by the board, for submission to the board.

If the person's fingerprints are submitted electronically or by another means to the Nevada Records of Criminal History, tangible proof of such shall be included in the application for registration in lieu of the fingerprint cards.

A licensee shall not employ a person who is not temporarily registered or registered as a gaming employee until such time as the person complies with this subsection.

5. If a licensee determines, after accessing the system of records maintained by the board, that a person seeking employment as a gaming employee with such licensee is subject to objection, suspension or revocation, the licensee shall:

(a) Not accept an application for registration from such person; and

(b) Notify the person that he must contact the board in order to pursue reversal or removal of such objection, suspension or revocation.

6. If a licensee determines, after accessing the system of records maintained by the board, that a person seeking employment as a gaming employee with such licensee is temporarily registered or registered as a gaming employee, the licensee shall provide such person with a change of employment notice and the

statement prescribed in subsections 1 and 2 of NRS 463.3351, and instruct him to complete such notice and statement **[**~~and~~**]**, unless otherwise prescribed by the chairman, **either online via the board's online gaming employee registration system or by completing the paper version of the notice and statement and** return**ing** them to the licensee in a sealed envelope, or in any other confidential manner permitted by the board, for submission to the board.

7. A licensee which instructs a person to obtain two complete sets of fingerprints shall be responsible for nonpayment by such person of the fee charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for processing such fingerprints.

8. Upon receipt of an application for registration, a licensee shall mail or deliver it to the board within 5 business days as prescribed in NRS 463.335(4).

9. The application for registration is confidential and shall not be accessed or used for any purpose by a licensee unless otherwise permitted by law, or prior, written consent is given by the person seeking employment.

10. A licensee shall immediately terminate a person it has employed or contracted with as a gaming employee, or reassign him to a position that does not require registration as a gaming employee, if the board notifies a licensee that the temporary registration or registration of the person it has employed as a gaming employee has been objected to by the board, or otherwise suspended or revoked.

11. On or before the fifteenth (15th) day of each month, each licensee shall submit a written report to the board containing the name, social security number, position held, and date of hire of each gaming employee hired during the previous month.

12. On or before the fifteenth (15th) day of the ensuing month after a calendar quarter, each licensee shall **enter a termination date for all gaming employees terminated or separated from service within the preceding quarter into the board's online gaming employee registration system or** submit a written report to the board containing the name, social security number, position held, and date of termination or separation of all gaming employees terminated or separated from service within the preceding quarter.

13. Each licensee must maintain a photo of every gaming employee employed by the licensee. The licensee shall maintain the photo for a period of no less than 5 years after the date in which the gaming employee is no longer employed by the licensee as a gaming employee. The photo must be large enough and of sufficient clarity to be able to clearly identify the gaming employee from the photo. The photo may be in the form of a photograph or it may be digitally stored, but it must be capable of being reproduced and provided at the request of the board.

14. Any violation of subsections 2 or 3 constitutes an unsuitable method of operation and shall be grounds for disciplinary action by the board and the commission in accordance with the Nevada Gaming Control Act and the regulations of the commission.

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5.160 Surveillance systems.

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3. At least 30 days before adopting any casino surveillance standards or revisions, the chairman shall:

(a) Publish notice of the proposed adoption or revision, together with the effective date thereof, **[**~~once a day for seven (7) consecutive days in a newspaper of daily general circulation, one of which is published in Reno, Nevada, and the other published in Las Vegas, Nevada~~**]** **by posting the proposed change or revision on the board's website**;

(b) Mail **[**~~a copy~~**]** **notice** of the **posting of the** proposed casino surveillance standards or revisions **on the board's website**, together with the effective date thereof, to each licensee and every other person who has filed a request therefor with the board; and

(c) Provide a copy of the proposed casino surveillance standards or revisions and their effective date to the commission.

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5.240 Service Providers.

1. Findings. The commission hereby finds that service providers are secure and reliable, that service providers do not pose a threat to the integrity of gaming, and that service providers are consistent with the public policy of this State pursuant to NRS 463.0129.

2. Definitions.

(a) "Chairman" means the chairman of the board or his designee.

(b) **"Geolocation service provider" means a person who, directly on behalf of a licensed operator of interactive gaming or licensed interactive gaming service provider, identifies, or provides information for the identification of, the geographic location of individuals for purposes of interactive gaming. This definition does not include a person who otherwise generally provides such information for purposes other than interactive gaming.**

(c) "Information technology service provider" means a person who, on behalf of another licensee, provides management, support, security, or disaster recovery services for board regulated hardware or software.

[~~(c)~~**](d)** "Marketing affiliate" is a type of interactive gaming service provider and is:

(i) A person who provides information regarding persons to an operator of interactive gaming via a database or customer list; or

(ii) A person who provides the trademarks, trade names, service marks or similar intellectual property under which an operator of interactive gaming identifies its interactive gaming system to patrons.

(e) "Patron identification service provider" means a person who, directly on behalf of an operator of interactive gaming or interactive gaming service provider, verifies, or provides information for the verification of, the identification of individuals for purposes of interactive gaming. This definition does not include a person who otherwise generally provides such information for purposes other than interactive gaming.

(f) "Payment processing service provider" means a person who, directly on behalf of a licensed operator of interactive gaming or licensed interactive gaming service provider, facilitates the funding of interactive gaming accounts.

[~~(d)~~**]****(g)** "Service provider" means a person who:

(i) Acts on behalf of another licensed person who conducts nonrestricted gaming operations, and who assists, manages, administers or controls wagers or games, or maintains or operates the software or hardware of games on behalf of such a licensed person, and is authorized to share in the revenue from games without being licensed to conduct gaming at an establishment;

(ii) Is an interactive gaming service provider as defined pursuant to Regulation 5A.020;

(iii) Is a cash access and wagering instrument service provider;

(iv) Is an information technology service provider; **[**~~or~~**]**

(v) Acts on behalf of another licensed person who conducts nonrestricted gaming operations where the services provided include those functions that fall within the definition of "gaming employee" pursuant to NRS 463.0157**;**

(vi) Is a geolocation service provider;

(vii) Is a patron identification service provider; or

(viii) Is a payment processing service provider.

→ A service provider granted a license by the commission is a licensee.

3. Service provider **[**~~license~~**]** **investigation** classifications. **[**~~A~~**]** **The level of investigation conducted by the board of a** service provider **applicant** **[**~~license shall be~~**]** **is** classified **[**~~to represent~~**]** **based on** the significance of the activities **to be** provided on behalf of a licensee and regulatory risk of the service provider **[**~~, which in turn guides the level of investigation conducted by the board~~**]**. The **investigation** classifications are as follows:

(a) **[**~~Except as provided in subsection 3(c), a class 1 service provider is the following:~~**]** **The following service providers are subject to a class 1 investigation:**

(i) Any interactive gaming service provider **other than a marketing affiliate**;

(ii) Any service provider who receives payments based on earnings or profits from any gambling game; or

(iii) Any other applicant for a service provider license who, upon a determination of the chairman, should be **[**~~a~~**]** **subject to a** class 1 **investigation** **[**~~service provider~~**]**. Such determination shall be based on the policy set forth in NRS 463.0129 and this subsection.

(b) **[**~~A class 2 service provider is a~~**]** **A**ny **[**~~person who is a~~**]** service provider other than **[**~~a class 1 or class 3 service provider.~~**]** **those identified in subsection 3(a) or 3(c) of this section, are subject to a class 2 investigation.**

(c) **[**~~A class 3 service provider is a probationary licensee~~**]** **Any service provider** who is acting on behalf of an operator of interactive gaming as a marketing affiliate **is subject to a class 3 investigation**.

4. A licensee may only use a service provider that is licensed as such by the commission.

5. A licensee continues to have an obligation to ensure, and remains responsible for, compliance with this regulation, the Gaming Control Act and all other regulations of the commission regardless of its use of a service provider.

6. A person may act as a service provider only if that person holds a license authorizing the person to act as a service provider **[**~~within the applicable class~~**]** and subject to any further conditions, limitations and restrictions imposed by the commission. Once licensed, a service provider may act on behalf of one or more gaming licensees.

7. Licensing.

(a) Applications for a **[**~~class 1~~**]** service provider license **that is subject to a class 1 investigation** shall be made, processed, and determined in the same manner as applications for nonrestricted gaming licenses, using such forms as the chairman may require or approve.

(b) Applications for a **[**~~class 2~~**]** service provider license **that is subject to a class 2 investigation** shall be made, processed, and determined **[**~~in the same manner as applications for restricted gaming licenses,~~**]** using such forms as the chairman may require or approve **and must be accompanied and supplemented by such documents and information as may be specified or required. Such service providers shall be subject to an investigation and review by the board as deemed necessary by the chairman based on the regulatory risk and the intended activities of the service provider but that is at a level less than a class 1 investigation and more than a class 3 investigation**.

(c) Applications for a **[**~~class 3~~**]** service provider license **that is subject to a class 3 investigation** shall be made, processed, and determined using such forms as the chairman may require or approve and must be accompanied and supplemented by such documents and information as may be specified or required. **[**~~Unless the chairman or his designee determines that an expanded investigation is necessary, the board shall conduct a cursory investigation of the applicant as determined by the chairman.~~**]** **Such service providers shall be subject to a cursory investigation and review conducted by the board. In addition to any other forms required by the chairman, [**~~A~~**]a**pplications **for a service provider license that is subject to a class 3 investigation** shall include the following:

(i) Completion of form 1 for an application for a**n [**~~class 1~~**] interactive gaming** service provider license, to be activated only in accordance with the provisions of this section;

(ii) **[**~~Fully executed waivers and authorizations as determined necessary by the chairman or his designee to conduct a background investigation of the applicant;~~

~~(iii)~~**]** An affirmative statement that the applicant submits to the jurisdiction of the board; **and**

[~~(iv)~~**](iii)** An affirmative statement that the applicant consents to the authority of the chairman to activate the applicant's application for a**n** **[**~~class 1~~**]** **interactive gaming** service provider license in accordance with the provisions of this section **and that any such activation shall require payment of all application and investigative fees related thereto in accordance with Regulation 4.070**;

[~~(v) All necessary fingerprints;~~

~~(vi)~~**](iv)** A waiver of all rights available under the provisions of NRS 463.310 through NRS 463.318 while a probationary licensee**.[**~~; and~~

~~(vii) An application fee in the amount of $150.00 and an investigative fee in the amount of $2,500.00. These fees do not include the application fee or investigation costs should the chairman activate the applicant's application for a class 1 service provider license as provided in this section.~~**]**

(d)**Except as otherwise provided in this section, a marketing affiliate granted a service provider license by the commission is a probationary licensee.**

(e) Before receiving a license, a service provider must meet the qualifications for licensing pursuant to NRS 463.170.

[~~(e)~~**](f)** Nothing in this Regulation shall be construed to limit or prevent the board from conducting such supplementary or expanded investigations of any applicant for a service provider license as determined necessary by the chairman or his designee. The board may require an applicant for a service provider license to pay any supplementary investigative fees and costs in accordance with Regulation 4.070.

[~~(f)~~**](g)** In order to further the policies set forth in NRS 463.0129, the chairman may, at any time after a **[**~~class 3~~**]** service provider probationary license has been granted, do one of the following:

(i) Activate such **[**~~class 3~~**]** service provider's application for a**n** **[**~~class 1~~**]** **interactive gaming** service provider license. Upon the commission acting on the application for a**n** **[**~~class 1~~**]** **interactive gaming** service provider license, the **[**~~class 3~~**]** service provider probationary license shall be terminated.

(ii) Terminate the **[**~~class 3~~**]** probationary license with 30 days written notice to the licensee at the address on file with the board.

→ A termination of a **[**~~class 3~~**]** probationary license shall not be construed as a revocation of the license.

[~~(g)~~**](h)** A **[**~~class 3~~**]** service provider probationary licensee shall have no right to review the termination of its license. Nothing in this section shall be construed to prohibit the board from initiating disciplinary proceedings, and the commission from imposing discipline, to limit, condition, suspend, revoke or fine a **[**~~class 3~~**]** service provider probationary licensee in accordance with the provisions of NRS 463.310 et. seq.

8. An applicant for a service provider's license shall have the burden of showing that its operations are secure and reliable.

9. **[**~~Except as otherwise provided for class 3 service provider applicants, a~~**]A**pplications for a service provider license shall be subject to the application and investigative fees established pursuant to Regulation 4.070.

10. The premises on which a service provider conducts its operations is subject to the power and authority of the board and commission pursuant to NRS 463.140. It shall be an unsuitable method of operation for a service provider holding a license issued by the commission to deny any board or commission member or agent, upon proper and lawful demand, access to, inspection or disclosure of any portion or aspect of their operations.

11. A service provider shall be liable to the licensee on whose behalf the service provider acts for the service provider's proportionate share of the fees and taxes paid by the licensee.

12. Employees of Service Provider. Any employee of a service provider who is connected directly with the operations of the service provider or who, on behalf of a licensee or on behalf of the service provider, performs the duties of a gaming employee as provided pursuant to NRS 463.0157 is a gaming employee subject to the provisions of NRS 463.335 and 463.337 and Regulations 5.100 through 5.109.

13. **License fees.**

(a) Before the commission issues an initial license or renews a license for a service provider, the service provider shall pay a license fee of $1,000.

(b) All service provider licenses shall be issued for the calendar year beginning on January 1 and expiring on December 31. If the operation as a service provider is continuing, the fee prescribed by subsection (a) shall be due on or before December 31 of the ensuing calendar year. Regardless of the date of application or issuance of the license, the fee charged and collected under this section is the full annual fee.

14. Any provisions of Regulation 5A specifically applicable to interactive gaming service providers shall control over this regulation.

[~~14~~**]15**. Grounds for Disciplinary Action.

(a) Failure to comply with the provisions of this regulation shall be an unsuitable method of operation and grounds for disciplinary action.

(b) The commission may limit, condition, suspend, revoke or fine any license, registration, finding of suitability or approval given or granted under this regulation on the same grounds as it may take such action with respect to any other license, registration, finding of suitability or approval.