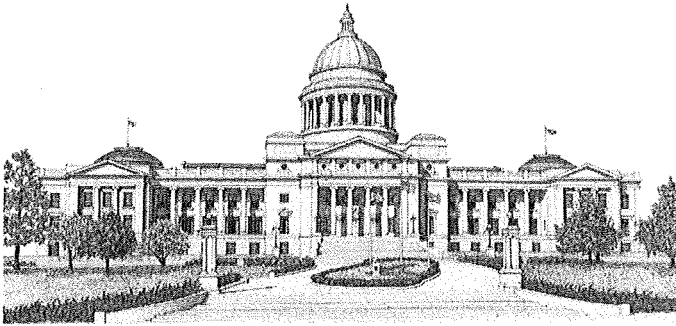


# ARKANSAS REGISTER

## Transmittal Sheet

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Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Arkansas Racing Commission

Department Department of Finance and Administration

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Statutory Authority for Promulgating Rules Amendment 100 to Arkansas Constitution

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Byron Freeland

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Contact Person

E-mail Address

Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Byron Freeland  
Signature

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Title

03-01-19

Date

**RULE 12**  
**MANUFACTURERS, DISTRIBUTORS, OPERATORS OF INTER-CASINO LINKED**  
**SYSTEMS, GAMING DEVICES, NEW GAMES, INTER-CASINO LINKED SYSTEMS,**  
**ON-LINE SLOT METERING SYSTEMS, CASHLESS WAGERING SYSTEMS,**  
**MOBILE GAMING SYSTEMS, INTERACTIVE GAMING SYSTEMS**  
**AND ASSOCIATED EQUIPMENT**

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**12.010 Definitions.** As used in this Rule, unless the context otherwise requires:

1. “Assume responsibility” means to acquire complete control over, or ownership of, a gaming device, cashless wagering system, mobile gaming system or interactive gaming system.

2. “Cashless wagering system” means the collective hardware, software, communications technology, and other associated equipment used to facilitate wagering on any game or gaming device including mobile gaming systems and interactive gaming systems with other than chips or legal tender of the United States. The term does not include any race and sports computerized bookmaking system that accepts pari-mutuel wagers, or any other race and sports book systems that do not accept wagering instruments, wagering credits or process electronic money transfers. Associated equipment such as redemption kiosks may also be used to act as promotion kiosks and automated teller machines.

3. “Commission” means the Arkansas Racing Commission or the Commission’s designee.

4. “Control program” means any software, source language or executable code which affects the result of a wager by determining win or loss. The term includes, but is not limited to, software, source language or executable code associated with the:

- (a) Random number generation process;
- (b) Mapping of random numbers to game elements to determine game outcome;
- (c) Evaluation of the randomly selected game elements to determine win or loss;
- (d) Payment of winning wagers;
- (e) Game recall;
- (f) Game accounting including the reporting of meter and log information to on-line slot metering system;
- (g) Monetary transactions conducted with associated equipment;
- (h) Software verification and authentication functions which are specifically designed and intended for use in a gaming device;
- (i) Monitoring and generation of game tilts or error conditions; and
- (j) Game operating systems which are specifically designed and intended for use in a gaming device.

The term does not include software used for artistic attributes of a game including graphics, sound and animation providing entertainment unless such elements are material to game play because they are necessary for the player to understand the game or game outcome.

5. “Distribution” or “distribute” means the sale, offering for sale, lease, offering for lease, licensing or other offer of any gaming device, cashless wagering system, mobile gaming system or interactive gaming system for use or play in Arkansas.

6. “Distributor” means a person who operates, carries on, conducts or maintains any form of distribution.

7. “Distributor of associated equipment” is any person that sells, offers to sell, leases, offers to lease, licenses, markets, offers, or otherwise offers associated equipment in Arkansas for use by licensees.

8. “Equipment associated with interactive gaming” means any equipment or mechanical, electromechanical or electronic contrivance, component or machine used remotely or directly in connection with gaming or mobile gaming, any game, race book or sports pool that would not otherwise be classified as a gaming device, including dice, playing cards, links which connect to progressive slot machines, equipment which affects the proper reporting of gross revenue, computerized systems of betting at a race book or sports pool, computerized systems for monitoring slot machines and devices for weighing or counting money; or a computerized system for recordation of sales for use in an area subject to tax.

9. “Game of chance” means a game in which randomness determines all outcomes of the game as determined over a period of continuous play.

10. “Game of skill” means a game in which the skill of the player, rather than chance, is the dominant factor in affecting the outcome of the game as determined over a period of continuous play.

11. “Game outcome” is the final result of the wager.

12. “Game variation” means a change or alteration in a game or gambling game that affects the manner or mode of play of an approved game. This includes, but is not limited to, the addition or removal of wagering opportunities or a change in the theoretical hold percentage of the game.

13. “Gaming session” means the period of time commencing when a player initiates a game or series of games on a gaming device by committing a wager and ending at the time of a final game outcome for that game or series of games.

14. “Hybrid game” means a game in which a combination of the skill of the player and chance affects the outcome of the game as determined over a period of continuous play.

15. “Identifier” means any specific and verifiable fact concerning a player or group of players which is based upon objective criteria relating to the player or group of players, including, without limitation:

- (a) The frequency, value or extent of predefined commercial activity;
- (b) The subscription to or enrollment in particular services;
- (c) The use of a particular technology concurrent with the play of a gaming device;
- (d) The skill of the player;
- (e) The skill of the player relative to the skill of any other player participating in the same game;
- (f) The degree of skill required by the game; or
- (g) Any combination of (a) to (f), inclusive.

16. “Independent contractor” means any person who:

- (a) Is not an employee of a licensed manufacturer; and

(b) Pursuant to an agreement with a licensed manufacturer:

(1) Designs, develops, programs, produces or composes a control program on behalf of the licensed manufacturer; or

(2) Designs, develops, produces or composes software, source language or executable code intended to be compiled into a control program by the licensed manufacturer.

As used in this Rule “licensed manufacturer” includes any affiliate that is owned or controlled by or under common control with the licensee.

17. “Independent testing laboratory” means a private laboratory that is registered by the Commission to inspect and certify games, gaming devices, associated equipment, cashless wagering systems, inter-casino linked systems, mobile gaming systems or interactive gaming systems, and any components thereof and modifications thereto, and to perform such other services as the Commission may request.

18. “Inter-casino linked system” means:

(a) A network of electronically interfaced similar games which are located at two or more licensed gaming establishments that are linked to:

(1) Conduct gaming activities, contests or tournaments; or

(2) Facilitate participation in a common progressive prize system,

and the collective hardware, software, communications technology and other associated equipment used in such system to link and monitor games or devices located at two or more licensed gaming establishments, including any associated equipment used to operate a multi-jurisdictional progressive prize system.

(b) Systems that solely record a patron’s wagering activity among affiliated properties are not inter-casino linked systems.

(c) The term “multi-jurisdictional progressive prize system” means the collection of hardware, software, communications technology and other associated equipment used to link and monitor progressive slot machines or other games among licensed gaming establishments in this state participating in an inter-casino linked system and one or more lawfully operated gaming locations in other jurisdictions that participate in a similar system for the purpose of participation in a common progressive prize system.

19. “Inter-casino linked system modification” means a change or alteration to an inter-casino linked system made by an operator who has been previously approved by the Commission to operate that system. With regard to inter-casino linked systems that link progressive payout schedules, the term includes, but is not limited to:

(a) A change in a system name or theme; or

(b) A change in gaming device denomination.

20. “Interactive gaming system” is a gaming device and means the collective hardware, software, communications technology, and proprietary hardware and software specifically designed or modified for, and intended for use in, the conduct of interactive gaming. The core components of an interactive gaming system, including servers and databases running the games on the interactive gaming system and storing game and interactive gaming account information, must be located in the State of Arkansas except as otherwise permitted by the Commission.

21. “Manufacture” means:

(a) To manufacture, produce, program, design, control the design of or make modifications to a gaming device, associated equipment, cashless wagering system, mobile gaming system or interactive gaming system for use or play in Arkansas;

(b) To direct, control or assume responsibility for the methods and processes used to design, develop, program, assemble, produce, fabricate, compose and combine the components and other tangible objects of any gaming device, associated equipment, cashless wagering system, mobile gaming system or interactive gaming system for use or play in Arkansas; or

(c) To assemble, or control the assembly of, a gaming device, associated equipment, cashless wagering system, mobile gaming system or interactive gaming system for use or play in Arkansas.

22. “Manufacturer” means a person who operates, carries on, conducts or maintains any form of manufacture.

23. “Manufacturer of associated equipment” is any person that manufactures, assembles, or produces any associated equipment, including inter-casino linked systems, for use in Arkansas by licensees.

24. “Manufacturer of equipment associated with interactive gaming” means any person that manufactures, assembles, or produces any equipment associated with interactive gaming.

25. “Mobile gaming system” or “system” means a system that allows for the conduct of games through mobile communications devices operated solely within a licensed gaming establishment by the use of communications technology that allows a patron to bet or wager, and corresponding information related to the display of the game, gaming outcomes or other similar

26. “Mobile gaming system modification” means any change or alteration to a mobile gaming system made by a manufacturer from its approved configuration.

27. “Modification” means a change or alteration in a gaming device previously approved by the Commission for use or play in Arkansas that affects the manner or mode of play of the device. The term includes a change to control programs and, except as provided in paragraphs (c) and (d) of this subsection, in the theoretical hold percentage. The term does not include:

(a) Replacement of one component with another, pre-approved component;

(b) The rebuilding of a previously approved device with pre-approved components;

(c) A change in the theoretical hold percentage of a mechanical or electro-mechanical device, provided that the device as changed meets the standards of these Rules;

(d) A change in the theoretical hold percentage of an electronic device which is the result of a top award jackpot or bonus jackpot payment which is paid directly by an attendant and which is not accounted for by the device; or

(e) A change to software used for artistic attributes of a game, including graphics, sound and animation providing entertainment unless such elements are material to game play because they are necessary for the player to understand the game or game outcome.

28. “On-line slot metering system” means the collective hardware, software and other associated equipment used to monitor, accumulate, and record meter information from gaming devices within a licensed establishment.

29. "Operator" means, except as otherwise provided, any person or entity holding a license to operate:

- (a) An inter-casino linked system or mobile gaming system in Arkansas;
- (b) A Casino gaming operation that operates an inter-casino linked system of affiliates; or
- (c) An inter-casino linked system under the preceding paragraphs (a) or (b) of this section which system also is linked to or otherwise incorporates a multi-jurisdictional progressive prize system.

30. "Private residence" means a noncommercial structure used by a natural person as a place of abode and which is not used for a commercial purpose.

31. "Proprietary hardware and software" means hardware or software specifically designed for use in a gaming device including a mobile gaming system and interactive gaming system.

32. "Randomness" is the observed unpredictability and absence of pattern in a set of elements or events that have definite probabilities of occurrence.

33. "Rules of play" means those features of a game necessary for a reasonable person to understand how a game is played including, but not limited to, the following:

- (a) Help screens;
- (b) Award cards; and
- (c) Pay-line information.

The term does not include those inherent features of a game that a reasonable person should know or understand prior to initiating the game.

34. "Skill" means the knowledge, dexterity or any other ability or expertise of a natural person.

35. "Theme" means a concept, subject matter and methodology of design.

**12.015 Policy.** Gaming devices and associated equipment that incorporate innovative, alternative and advanced technology are beneficial to and in the best interests of the State of Arkansas and it is the policy of the Commission to encourage the development and deployment of such technologies by manufacturers, distributors and gaming establishments Arkansas.

**12.0215 Determination of suitability.**

1. A person is not subject to licensing in connection with activities performed as an independent contractor provided that a person who is licensed under the provisions of this section assumes responsibility for the design, development, programming, production or composition of the control program Arkansas.

2. An independent contractor may be required by the Commission, upon recommendation of the Commission, to file an application for a finding of suitability to be an independent contractor for a licensed manufacturer.

3. The Commission shall give written notice to the independent contractor of its decision to require the filing of an application for a finding of suitability. Unless otherwise stated by the

Commission in its written notice, an independent contractor who has been ordered to file an application for a finding of suitability to be an independent contractor may continue to perform under a contract with a manufacturer unless and until the Commission finds the independent contractor unsuitable.

4. If the Commission finds an independent contractor to be unsuitable:

(a) All licensed manufacturers shall, upon written notification, immediately terminate any existing relationships, direct or indirect, with such independent contractor;

(b) No new gaming device with a control program that contains software, source language, or executable code created in whole or in part by the unsuitable independent contractor shall be approved; and

(c) Any previously approved gaming device with a control program that contains software, source language, or executable code created in whole or in part by the independent contractor is subject to revocation of its approval if the reasons for the finding of unsuitability also apply to that gaming device.

5. Failure of a licensed manufacturer to terminate any association or agreement with an independent contractor after receiving notice of the determination of unsuitability constitutes an unsuitable method of operation.

6. The Commission retains jurisdiction to determine the suitability of an independent contractor regardless of whether or not the independent contractor has any active agreements with licensed manufacturers or is otherwise no longer functioning as an independent contractor.

7. A failure on the part of an independent contractor to submit an application for a finding of suitability within 30 days after being demanded to do so by the Commission shall constitute grounds for a finding of unsuitability of the independent contractor.

8. An independent contractor, or employee thereof, is not considered a gaming employee in relation to any work conducted designing, programming, producing or composing a control program within the scope of an agreement entered into with a licensed manufacturer. An independent contractor or employee thereof, is in no way exempt from being classified as a gaming employee for such work performed outside the scope of an agreement with a licensed manufacturer or for other work performed related to gaming.

**12.023 Manufacturer's agreements with independent contractors.** Any agreement between a licensed manufacturer and an independent contractor shall provide for termination without continuing obligation of the licensed manufacturer in the event the independent contractor:

1. Refuses to respond to information requests from the Commission;

2. Fails to file an application for a finding of suitability as required by the Commission; or

3. Is found unsuitable by the Commission.

**12.024 Manufacturer's responsibilities for independent contractors.** Each licensed manufacturer must:



1. Complete a review of any software, source language or executable code designed, developed, produced or composed by an independent contractor for compliance with all applicable regulations and technical standards of the Commission and Commission prior to submission to the Commission; and

2. As to such submission, maintain a record of the general subject matter description of the software, source language or executable code that was designed, developed, produced or composed by an independent contractor, by contractor name.

Unless the Commission approves or requires otherwise in writing, such records shall be maintained for a minimum of five years from the date of the relevant submission and must be made available to the Commission upon request. Failure to keep and provide such records is an unsuitable method of operation.

**12.025 Certain themes prohibited in association with gaming devices or slot machines.**

1. A gaming device or gaming device modification submitted for approval by a manufacturer or made available for play by a licensee must not use a theme that:

(a) Is derived from or based on a product that is currently and primarily intended or marketed for use by persons under 21 years of age, or

(b) Depicts a subject or material that:

(1) Is obscene;

(2) Offensively portrays persons based on race, religion, national origin, gender, or sexual preference; or

(3) Is otherwise contrary to public policy of this state.

2. A manufacturer, licensee or other person holding the intellectual property rights to a theme may, concurrent with or independent of an application for approval of or modification to a gaming device, file a request with the Commission, in such manner and using such forms as the Commission may prescribe, for a determination as to whether subsection 1 prohibits use of the theme in connection with a gaming device.

(a) The request for determination must be accompanied by a nonrefundable fee of [\$500] for each separate theme.

(b) The requesting party shall articulate the reasons that the theme is not prohibited by subsection 1 along with any additional information it deems relevant to the determination. Information submitted pursuant to this section is confidential;

3. Within 30 days of the submission of the request for determination pursuant to subsection 2, the Commission shall administratively approve, approve with modification or condition, or deny the request for determination.

4. A written request for withdrawal of the request for determination may be made by the requesting party at any time prior to the Commission's final action on such request. A request for withdrawal is effective upon delivery to the Commission and is without prejudice.

**12.030 Approval of gaming devices and the operation of new inter-casino linked systems; applications and procedures.**

1. A manufacturer or distributor shall not distribute a gaming device in Arkansas and a licensee shall not offer a gaming device for play unless it has been approved by the Commission or is offered for play pursuant to a field test ordered by the Commission.

2. An operator of an inter-casino linked system shall not install and operate a new inter-casino linked system in Arkansas and a licensee shall not offer any gaming device or game for play that is part of such a system unless operation of the inter-casino linked system and all gaming devices or games that are part of or connected to the inter-casino linked system have been approved by the Commission or are offered for play pursuant to a field test ordered by the Commission.

3. Applications for approval of a new gaming device or to operate a new inter-casino linked system shall be made and processed in such manner and using such forms as the Commission may prescribe. Only licensed manufacturers may apply for approval of a new gaming device. Only operators may apply for approval to operate a new inter-casino linked system.

4. At the Commission's request an applicant for a manufacturer's or inter-casino linked system operator's license shall, or upon the Commission's prior approval an applicant for a manufacturer's or operator's license may, apply for a preliminary determination that a new gaming device or new inter-casino linked system meets the standards required by this Rule.

5. Each application shall include, in addition to other items or information as the Commission may require:

(a) A complete, comprehensive, and technically accurate description and explanation in both technical and lay language of the manner in which the device or inter-casino linked system operates and complies will all applicable statutes, regulations and technical standards, signed under penalty of perjury;

(b) A statement under penalty of perjury that, to the best of the manufacturer's knowledge, the gaming device meets the standards of section 14.040 or, in the case of an inter-casino linked system, that to the best of the operator's knowledge the system meets the standards of section 14.045;

(c) In the case of a gaming device, a copy of all executable software, including data and graphic information, and a copy of all source code for programs that cannot be reasonably demonstrated to have any use other than in a gaming device, submitted on electronically readable, unalterable media;

(d) In the case of a gaming device, a copy of all graphical images displayed on the gaming device including, but not limited to, reel strips, rules, instructions and paytables;

(e) In the case of an inter-casino linked system:

(1) An operator's manual;

(2) A network topology diagram;

(3) An internal control system;

(4) A hold harmless agreement;

(5) A graphical representation of the system theme and all related signage;

(6) Information sufficient to calculate a theoretical payoff schedule amount including, but not limited to, the base and reset amounts, the total contribution percentage and a breakdown of that percentage including contribution rates to all progressive payoff schedules and all reset funds, the odds of winning the progressive payoff schedule and the amount of the wager required to win the progressive payoff schedule; and

(7) The form of any agreement or written specifications permitted or required of an operator by any other state or tribal government and affecting a multi-jurisdictional progressive prize system.

(f) In the case of a mobile gaming system:

(1) An operator's manual;

- (2) A network topology diagram;
  - (3) An internal control system; and
  - (4) A description of the method used to isolate game function to the areas listed in these Rules; and
- (g) All materials relating to the results of the registered independent testing laboratory's inspection and certification process that are required under section 14.400.

**12.040 Minimum standards for gaming devices.**

1. All gaming devices must:

- (a) Theoretically pay out a mathematically demonstrable percentage of all amounts wagered over the life of the game, which must not be less than 83 percent for each wager available for play on the device.
- (b) Determine game outcome solely by the application of:
  - (1) Chance;
  - (2) The skill of the player; or
  - (3) A combination of the skill of the player and chance.
- (c) Display in an accurate and non-misleading manner:
  - (1) The rules of play;
  - (2) The amount required to wager on the game or series of games in a gaming session;
  - (3) The amount to be paid on winning wagers;
  - (4) Any rake-off percentage or any fee charged to play the game or series of games in a gaming session;
  - (5) Any monetary wagering limits for games representative of live gambling games;
  - (6) The total amount wagered by the player;
  - (7) The game outcome; and
  - (8) Such additional information sufficient for the player to reasonably understand the game outcome.
- (d) Satisfy the technical standards adopted pursuant to these Rules.

2. Once a game is initiated by a player on a gaming device, the rules of play for that game, including the probability and award of a game outcome, cannot be changed. In the event the game or rules of play for the game, including probability and award of a game outcome, change between games during a gaming session, notice of the change must be prominently displayed to the player.

3. Gaming devices connected to a common payoff schedule shall:

- (a) All be of the same denomination and have equivalent odds of winning the common payoff schedule/common award based as applicable on either or both of the combined influence of the attributes of chance and skill; or
- (b) If of different denominations, equalize the expected value of winning the payoff schedule/common award on the various denominations by setting the odds of winning the payoff schedule in proportion to the amount wagered based as applicable on either or both the combined influence of the attributes of chance and skill, or by requiring the same wager to win the payoff schedule/award regardless of the device's denomination. The method of equalizing the expected value of winning the payoff schedule/award shall be conspicuously displayed on each device connected to the common payoff schedule/common award. For the purposes of this requirement, equivalent is defined as within a 5 percent tolerance for expected value and no more than a 1 percent tolerance on return to player or payback.

4. All possible game outcomes must be available upon the initiation of each play of a game upon which a player commits a wager on a gaming device.

5. For gaming devices that are representative of live gambling games, the mathematical probability of a symbol or other element appearing in a game outcome must be equal to the mathematical probability of that symbol or element occurring in the live gambling game.

6. Gaming devices that offer games of skill or hybrid games must indicate prominently on the gaming device that the outcome of the game is affected by player skill.

7. Gaming devices must not alter any function of the device based on the actual hold percentage.

8. Gaming devices may use an identifier to determine which games are presented to or available for selection by a player.

9. For gaming devices manufactured and distributed before September 28, 1989, the Commission may waive the requirements of these Rules for a licensee exposing a gaming device to the public for play, if the licensee can demonstrate to the Commission's satisfaction that:

(a) After the waiver the aggregate theoretical payout for all amounts wagered on all gaming devices exposed for play by the licensee at a single establishment meets the 83 percent standard of subsection 1(a) of section 14.040, and

(b) The licensee is unable to bring the device into compliance with the requirements of subsection 1(a) of section 14.040 because of excessive cost or the unavailability of parts.

10. The Commission may waive for good cause shown the requirements of a technical standard for a game. The Commission has full and absolute authority to condition or limit a waiver granted under this section for any cause deemed reasonable.

**12.045 Minimum standards for inter-casino linked systems.** All inter-casino linked systems submitted for approval:

1. Shall, in the case of an inter-casino linked system featuring a progressive payoff schedule that increases as the inter-casino linked system is played, have a minimum rate of progression for the primary jackpot meter of not less than .4 of one percent of amounts wagered. In the case of an inter-casino linked system featuring a progressive payoff schedule that increases over time, have a minimum rate of progression for the primary jackpot meter of not less than one hundred dollars per day. The provisions of this subsection do not prevent an operator from limiting a progressive payoff schedule as allowed by these Rules.

2. Shall have a method to secure data transmissions between the games and devices and the main computer of the operator, as approved by the Commission.

3. Shall display the rules of play and the payoff schedule.

4. Shall meet the applicable minimum standards for internal control that have been adopted pursuant to these Rules.

### **12.050 Technical standards.**

1. The Commission shall publish technical standards for approval of gaming devices, on-line slot metering systems, cashless wagering systems, and associated equipment.

2. The Commission shall:

(a) Publish notice of proposed technical standards or revisions by posting the proposed changes or revisions on the Commission's website;

(b) Mail notice of the posting of the proposed technical standards or revisions on the Commission's website and a copy of this section to every Casino licensee, licensed manufacturer and every person who has filed a request with the Commission; and

(c) Provide a copy of the proposed technical standards or revisions to the Commission.

3. The Commission shall consider all written statements, arguments, or contentions submitted by interested parties within 30 days of service of the notice provided for in subsection 2.

4. Not later than 45 days after service of written notice that the Commission has proposed the technical standards or revisions, any Casino licensee or licensed manufacturer may object to the technical standards or revisions by filing a written objection with the Commission.

5. The Commission shall consider any objections filed to the technical standards or revisions proposed by the Commission. If the Commission does not concur with any of the technical standards, the Commission shall revise the technical standards to reflect the order of the Commission.

6. The Commission shall send written notice of the effective date of the standards or revisions to all Casino licensees, licensed manufacturers and every person who has filed a request with the Commission.

7. Casino licensees or licensed manufacturers may propose the adoption, revision, or deletion of technical standards by submitting a written request to the Commission who will consider the request at the Commission's discretion. If the Commission does not propose the technical standard, the Casino licensee or licensed manufacturers may file a request with the Commission to adopt, revise, or delete a technical standard. The Commission may consider the request at its discretion.

### **12.060 Employment of individual to respond to inquiries from the Commission.**

1. Each manufacturer and operator shall employ or retain an individual who understands the design and function of each of its gaming devices, cashless wagering systems, inter-casino linked systems, mobile gaming systems, or interactive gaming systems who shall respond within the time specified by the Commission to any inquiries from the Commission concerning the gaming device, cashless wagering system, inter-casino linked system, mobile gaming system, or interactive gaming system or any modifications to the gaming device, cashless wagering system, inter-casino linked system, mobile gaming system, or interactive gaming system. Each manufacturer or operator shall on or before December 31st of each year report in writing the name of the individual designated pursuant to this section and shall report in writing any change in the designation within 15 days of the change.

2. Each registered independent testing laboratory shall employ an individual who understands the inspection and certification methodology, procedures, and operation of the

registered independent testing laboratory. Such person shall be available during regular Arkansas business hours to respond to requests from the Commission. Each registered independent testing laboratory shall provide the Commission with the name of the employee performing this function as part of their initial registration application materials, and shall report in writing any subsequent change in the employee designated to perform this function within 15 days of the change.

**12.070 Commission evaluation of new gaming devices.** The Commission may require transportation of not more than two working models of a new gaming device to the new game lab of the Commission or some other location for review and inspection. The manufacturer seeking approval of the device must pay the cost of the inspection and investigation. The lab may dismantle the models and may destroy electronic components in order to fully evaluate the device. The Commission may require that the manufacturer provide specialized equipment or the services of an independent technical expert to evaluate the device.

**12.075 Commission evaluation of inter-casino linked systems.** The Commission may require transportation of not more than one working model of an inter-casino linked system to the Commission's offices or some other location for review and inspection pursuant to these Rules. The associated equipment manufacturer seeking approval of the system shall pay the cost of the inspection and investigation. The Commission may dismantle the model and may destroy electronic components in order to fully evaluate the inter-casino linked system. The Commission may require that the operator of an inter-casino linked system provide specialized equipment or the services of an independent technical expert to evaluate the inter-casino linked system.

**12.080 Field test of new gaming devices and new inter-casino linked systems.**

1. The Commission, in accordance with these Rules, may allow or require that one or more models of a new gaming device or inter-casino linked system be tested at a licensed gaming establishment(s) for not more than 180 days under terms and conditions that the Commission may approve or require. Upon written request of the manufacturer, distributor or operator, the Commission may, by written agreement, allow the test period to be continued an additional 90 days beyond the 180-day maximum field test period, for the purpose of allowing the application for approval of the new gaming device or application to operate a new inter-casino linked system to be acted upon by the Commission. The Commission shall report all field tests on the agenda of the next regularly scheduled meeting of the Commission.

2. In the interests of expediting the introduction of innovative, alternative and advanced technology for gaming devices and inter-casino linked systems for use or play in Arkansas, a manufacturer may request its new gaming device or inter-casino linked system be considered for evaluation under New Innovation Beta as an alternative to the field testing process set forth under subsection 1.

(a) For purposes of this section only, the term "New Innovation Beta" means a process of evaluating a new gaming device or inter-casino linked system utilizing a field testing period under conditions and limitations described in this subsection.

(b) The terms and conditions imposed under the New Innovation Beta will be set forth by the Commission, and may include the requirement that a licensee notify patrons that the new gaming device is part of such a field test and is being exposed for play prior to finalization of the product in order to allow the evaluation of the gaming device or inter-casino linked system at an earlier stage of the regulatory approval process.

(c) The decision whether to permit a new gaming device or inter-casino linked system to be evaluated utilizing New Innovation Beta is at the sole and absolute discretion of the Commission.

(d) When considering the request to evaluate a new gaming device or inter-casino linked system utilizing New Innovation Beta, the Commission will consider factors including, without limitation, the ability of the gaming device to accurately determine, evaluate, and display the game outcome, the ability of the gaming device to accurately process the acceptance and award of all payments, and the extent to which an inter-casino linked system complies with the requirements of these Rules.

(e) The Commission may also consider the approval status of the gaming device or inter-casino linked system in another state or foreign jurisdiction in which gaming is legal and regulated by a government agency with standards for gaming devices and inter-casino linked systems materially the same as those in Arkansas, the determination of which is within the sole discretion of the Commission.

3. A manufacturer shall not modify a gaming device and an operator shall not modify a new inter-casino linked system during the test period without the prior written approval of the Commission.

4. The Commission may order termination of the test period, if the Commission determines, in the Commission's sole and absolute discretion, that the manufacturer, operator, or licensed gaming establishment has not complied with the terms and conditions of the order allowing or requiring a test period or for any cause deemed reasonable.

(a) If the test period is terminated due to the licensed gaming establishment's failure to comply with the terms and conditions of the order allowing or requiring a test period, the Commission may order that the test be conducted at another licensed gaming establishment.

(b) A manufacturer or operator may object to the termination of the test period by filing a written objection with the Commission. The filing of an objection shall not stay the order terminating the test. If the Commission fails to order resumption of the test within 60 days of the written objection, the objection will be deemed denied. If the Commission sustains the objection, the testing may be resumed under terms that may be approved or required by the Commission.

5. A licensee or manufacturer, or their agent shall not play a new gaming device during a test period. A licensee or operator, or their agent, shall not play a gaming device or game connected to a new inter-casino linked system during a test period.

6. If the Commission has made a determination that a new gaming device or new inter-casino linked system is not eligible for testing at a licensed gaming establishment, the Commission shall notify the manufacturer or operator in writing. Not later than 10 days after receipt of such notification, the manufacturer or operator may object to such a determination by filing written objection with the Commission. If the Commission fails to order a test period within 60 days of the written objection, the objection will be deemed denied. If the Commission sustains the objection, the new gaming device or new inter-casino linked system may be tested at a licensed gaming establishment under terms and conditions that may be approved or required by the Commission.

#### **12.090 Certification by manufacturer.**

1. After completing its evaluation of a new gaming device, the Commission's new games lab shall send a report of its evaluation to the manufacturer seeking approval of the device. The report must include an explanation of the manner in which the device operates. The report must

not include a position as to whether the device should be approved. The manufacturer shall return the report within 15 working days and shall either:

(a) Certify under penalty of perjury that to the best of its knowledge the explanation is correct; or

(b) Make appropriate corrections, clarifications, or additions to the report and certify under penalty of perjury that to the best of its knowledge the explanation of the gaming device is correct as amended.

2. The Commission may order additional evaluation and a field test of the new gaming device of up to 60 days in addition to the test period provided for in these Rules if the Commission determines, based upon the manufacturer's certification, that such additional evaluation is necessary.

### **12.100 Final approval of new gaming devices and new inter-casino linked systems.**

1. After completing its evaluation of the new gaming device or the operation of a new inter-casino linked system, the Commission shall recommend whether the application for approval of the new gaming device or operation of a new inter-casino linked system should be granted.

2. In considering whether a new gaming device or operation of a new inter-casino linked system will be given final approval, the Commission shall consider whether:

(a) Approval of the new gaming device or operation of a new inter-casino linked system is consistent with the public policy of this state.

(b) The terms of any agreement or written specifications permitted or required of an operator by any other state or tribal government and affecting a multi-jurisdictional progressive prize system:

(1) Comply with the provisions of these Rules; and

(2) Include procedures satisfactory to the Commission for:

(A) Ensuring compliance with the requirements of these Rules;

(B) Resolution of patron disputes under procedural and substantive requirements equal to or greater than the standards applied by the Commission;

(C) Surveillance and security of gaming devices connected to such system;

(D) Record-keeping and record-retention;

(E) Control of access to any internal mechanism of gaming devices connected to such system;

(F) Prior administrative approval of the Commission for any adjustments to progressive meters;

(G) Access by the Commission to audit compliance with the requirements of this subparagraph; and

(H) Any special procedures necessary for a multi-jurisdictional progressive prize system with

lawfully operated gaming locations participating outside the United States, including without limitation matters of currency conversion and the availability of English translations of all relevant and material documentation and information.

(c) For an inter-casino linked system of games of skill or hybrid games:

(1) The types of games that will be connected to such a system are compatible;

(2) The communications technology used to connect participating gaming devices is adequate for the operating environment for such a system; and



(3) The progressive payoff schedules used for such systems are accurately described for players and comply with these Rules. Notwithstanding the provisions of these Rules, such schedules may broaden and encourage participation in games with skill attributes, by providing, without limitation, for partial prize awards, and prize awards for games with different themes or based on the use of identifiers.

3. Commission approval of a gaming device or inter-casino linked system does not constitute certification of the devices or inter-casino linked system's safety. Commission approval of a multi-jurisdictional progressive prize system shall include approval of any agreement or written specifications permitted or required by any other state or tribal government and affecting such system. The Commission will complete any written acknowledgement necessary to document the Commission's approval of any such agreement or written specifications. The prior administrative approval of the Commission is required of any modification to such agreement or written specifications.

4. A manufacturer or distributor who becomes aware that a gaming device or associated equipment approved by the Commission or the Commission no longer complies with the Rules of the Commission or the technical standards adopted pursuant to these Rules shall notify the Commission in writing within 3 business days.

**12.105 Installation of a system based game or a system supported game.** A licensee shall not install or use a system based game or system supported game without prior written approval of the system network implementation from the Commission. Additionally, any modifications to the approved network implementation must be approved by the Commission. Applications for approval to install or modify a system based game or system supported game shall be made and processed in such manner and using such forms as the Commission may prescribe. The applicant seeking approval of the installation shall pay the cost of the investigation.

**12.110 Approval to modify gaming devices or inter-casino linked systems; applications and procedures.**

1. Modifications to gaming devices may only be made by licensed manufacturers who have received prior written approval of the Commission. Inter-casino linked system modifications may only be made by operators of such systems who have received prior written approval of the Commission.

The Commission, in the Commission's sole and absolute discretion, may refer an inter-casino linked system modification to the full Commission for consideration of approval. In an emergency when a modification is necessary to prevent cheating or malfunction, the Commission may, in the Commission's sole and absolute discretion, orally approve a modification to be made by a manufacturer or operator. Within 15 days of the emergency modification, the manufacturer or operator making such modification shall submit a written request for approval of the modification that shall contain the information required by subsection 3 and such other information as required by the Commission.

2. A manufacturer shall not modify a gaming device unless the device, as modified, meets the standards in these Rules. An operator shall not modify an inter-casino linked system unless the system, as modified, meets the standards in these Rules. The Commission may, in the Commission's sole and absolute discretion, waive all or some of the standards in these Rules, if the modification is necessary to prevent cheating or malfunction. A waiver shall be effective

when the manufacturer or operator receives a written notification from the Commission that all or some of the standards will be waived pursuant to this subsection. A waiver of all or some of the standards pursuant to this subsection is not an approval of the modification.

3. Applications for approval to modify a gaming device or an inter-casino linked system shall be made by a manufacturer and processed in such manner and using such forms as the Commission may prescribe. Each application shall include, in addition to such other items or information as the Commission may require:

(a) A complete, comprehensive, and technically accurate description and explanation of the modification in both technical and lay language signed under penalty of perjury;

(b) Unless the standards of these Rules have been waived pursuant to subsection 2, a statement under penalty of perjury that to the best of the manufacturer's knowledge, the gaming device, as modified, meets the standards of these Rules or, in the case of an inter-casino linked system, a statement under penalty of perjury that to the best of the operator's knowledge the inter-casino linked system, as modified, meets the standards of these Rules;

(c) In the case of a gaming device:

(1) A copy of all executable software, including data and graphic information, and a copy of all source code for programs that cannot be reasonably demonstrated to have any use other than in a gaming device, submitted on electronically readable, unalterable media;

(2) A copy of all graphical images displayed on the gaming device including, but not limited to, reel strips, rules, instructions and paytables;

(d) In the case of a modification to the control program of a gaming device that includes software, source language or executable code designed or developed by an independent contractor:

(1) The name of the independent contractor; and

(2) A general subject matter description of such software, source language or executable code compiled into the control program as part of the submission to the Commission;

(e) In the case of an inter-casino linked system:

(1) An operator's manual;

(2) An internal control system;

(3) A hold harmless agreement;

(4) A graphical representation of the system theme and all related signage; and

(5) Information sufficient to calculate a theoretical payoff schedule amount.

(f) All materials relating to the results of the registered independent testing laboratory's inspection and certification process that are required under these Rules.

#### **12.120 Commission evaluation of modifications.**

1. The Commission may require transportation of not more than two working models of a modified gaming device or not more than one working model of a modified inter-casino linked system, or any component thereof, to the Commission's offices or some other location for review and inspection. The manufacturer or operator seeking approval of the modification shall pay the cost of the inspection and investigation. The Commission may dismantle the models and may destroy electronic components in order to fully evaluate the modified gaming device or inter-casino linked system, or component. The Commission may require that the manufacturer or operator provide specialized equipment or the services of an independent technical expert to evaluate the modification.

2. The Commission has sole and absolute discretion to determine whether the requested modification of a gaming device renders the device sufficiently different so that the modified device should be treated as a new gaming device. If the Commission makes such a determination, the Commission shall notify the manufacturer in writing. The manufacturer may file an application for approval of a new gaming device.

3. The manufacturer or operator shall submit materials relating to the results of the registered independent testing laboratory's inspection and certification process that are required under these Rules.

**12.130 Field test of modified gaming devices and modified inter-casino linked systems.**

1. The Commission may allow or require that one or more models of a modified gaming device or modified inter-casino linked system be tested at a licensed gaming establishment for not more than 180 days under terms and conditions that the Commission may approve or require.

2. In the interests of expediting innovative, alternative and advanced technology in the modification of gaming devices and inter-casino linked systems approved for use or play in Arkansas, a manufacturer may request a modification to its gaming device or inter-casino linked system be considered for evaluation under New Innovation Beta as an alternative to the field testing process set forth in these Rules.

(a) For purposes of this section only, the term "New Innovation Beta" means a process of evaluating a modification to a gaming device or inter-casino linked system utilizing a field testing period under conditions and limitations described in this subsection.

(b) The terms and conditions imposed under New Innovation Beta will be set forth by the Commission, and may include the requirement that a licensee notify patrons that the modification to an approved gaming device or inter-casino linked system is part of such a field evaluation and is being exposed for play prior to finalization of the product in order to allow the evaluation of the modification to the gaming device or inter-casino linked system at an earlier stage of the regulatory approval process.

(c) The decision whether to permit a modification to an approved gaming device or inter-casino linked system to be evaluated utilizing New Innovation Beta is at the sole and absolute discretion of the Commission.

(d) When considering the request to evaluate a modification to an approved gaming device or inter-casino linked system utilizing New Innovation Beta, the Commission will consider factors including, without limitation, the ability of the gaming device to accurately determine, evaluate, and display the game outcome, the ability of the gaming device to accurately process the acceptance and award of all payments, and the extent to which an inter-casino linked system complies with the requirements of these Rules.

(e) The Commission may also consider the approval status of the modification to an approved gaming device or inter-casino linked system in another state or foreign jurisdiction in which gaming is legal and regulated by a government agency with standards for modifications of gaming devices and inter-casino linked systems materially the same as those in Arkansas, the determination of which is within the sole discretion of the Commission.

3. A manufacturer shall not further modify a gaming device and an operator shall not further modify an inter-casino linked system during the test period without the prior written approval of the Commission.

4. The Commission may order termination of the test period if the Commission determines, in the Commission's sole and absolute discretion, that the manufacturer, operator, or licensed gaming establishment has not complied with the terms and conditions of the order allowing or requiring a test period or for any cause deemed reasonable.

5. A licensee or manufacturer, or their agent shall not play a modified gaming device during a test period. A licensee or operator, or their agent shall not play a gaming device or game connected to a modified inter-casino linked system during a test period.

6. If the Commission has made a determination that the modified gaming device or modified inter-casino linked system is not eligible for testing at a licensed gaming establishment, the Commission shall notify the manufacturer or operator in writing.

**12.140 Final approval of modifications.** The Commission shall notify the manufacturer or operator in writing of the Commission's decision to approve or disapprove a modification.

**12.160 Duplication of program storage media.** A licensee other than a manufacturer shall not duplicate the contents of gaming device program storage media unless its duplication process has received written approval of the Commission.

**12.170 Marking, registration, and distribution of gaming devices.**

1. Except as otherwise provided in subsection 2, a manufacturer or distributor shall not distribute a gaming device unless the gaming device has:

(a) A permanent serial number which must be affixed as required by the provisions of the Gaming Device Act of 1962, 15 U.S.C. 1173; and

(b) For devices distributed in this state:

(1) A permanent serial number which must be the same number as given the device pursuant to the provisions of the Gaming Device Act of 1962, 15 U.S.C. 1173, permanently stamped or engraved in lettering no smaller than 5 millimeters on the metal frame or other permanent component of the device and on a removable metal plate attached to the cabinet of the device; and

(2) The Commission approval number or, if the device has been modified since initial approval of the device, the modification approval number affixed on all program storage media placed in the device.

2. The Commission may, in the Commission's sole and absolute discretion, waive the requirements of subsection 1 if:

(a) The device was manufactured prior to January 1, 1962, and the manufacturer or distributor permanently stamps or engraves in lettering no smaller than 5 millimeters a distributor's identification code assigned by the Commission and a serial number on the metal frame or other permanent component of each device covered by this subsection.

(b) The program storage media in 1(b) can be altered through a means that does not require removal from the device or if the size of such media does not permit it.

3. Each manufacturer or distributor shall keep records of the date of each distribution, the serial numbers of the devices, the Commission approval number, or if the device has been modified since initial approval of the device, the modification approval number, and the name, addresses and telephone numbers of the person to whom the gaming devices have been

distributed for use or play in Arkansas and shall provide such records to the Commission immediately upon the Commission's request.

4. For all gaming devices distributed from a location within Arkansas that are not for use or play in Arkansas, a manufacturer or distributor shall provide any and all records documenting such distributions to the Commission upon request. Such records shall include the information required under the Gambling Device Act of 1962, 15 U.S.C. 1173, and shall be retained for a period of five years.

**12.180 Approval for category I licensees to distribute gaming devices out of Arkansas; applications and procedure; recordkeeping requirements for category II licensees; extraterritorial distribution compliance; inspection of facilities and devices.**

1. Subject to the exemption set forth in subsection 4, category I manufacturers and distributors shall not distribute gaming devices out of this state without applying for and receiving the prior written approval of the Commission. Applications for such approval to distribute gaming devices out of this state must be made, processed, and determined in such manner and using such forms as the Commission may prescribe. Each application must include, in addition to such other items or information as the Commission may require:

(a) The full name, state of residence, address, telephone number, social security number, and driver's license number of both the purchaser and the person to whom the shipment is being made, if neither is currently licensed by the Commission. If the purchaser or person to whom the shipment is being made does not have a social security number or driver's license number, the birth date of the purchaser or person to whom the shipment is being made may be substituted;

(b) The name and permanent address of the purchaser or person to whom the shipment is being made if either is currently licensed by the Commission;

(c) The destination, including the port of exit if the destination is outside the continental United States;

(d) The number of devices to be shipped;

(e) The serial number of each device;

(f) The model number of each device and year each device was manufactured, if known;

(g) The denomination of each device;

(h) The expected date and time of shipment; and

(i) The method of shipment and name and address of carrier.

2. Except as provided in paragraph (c) of this subsection, category II manufacturers and distributors are exempt from subsection 1, and shall:

(a) Prepare and maintain records of the information required by the Gaming Devices Act of 1962, 15 U.S.C. 1173. The records and documentation required by this paragraph (a) will be retained for a period of five years and must be produced for inspection upon request by the Commission. The failure to prepare and maintain such records and documentation will be an unsuitable method of operation.

(b) Submit to the Commission on or before the 15th day of January and July of each calendar year an electronic record of the name and address of all current customers which shall be in a searchable format. The record required by this paragraph (b) will be received and retained by the Commission as confidential.

(c) A category II manufacturer and distributor may by written notice to the Commission elect to be treated as and comply with the requirements of this Rule applicable to a category I manufacturer and distributor.

3. Manufacturers and distributors shall not ship gaming devices to a destination where possession of a gaming device is unlawful.

4. Category I manufacturers and distributors are exempt from the requirements of this Rule for shipments of gaming devices provided:

(a) The gaming devices are only distributed to:

(1) Persons licensed to expose such devices for play or for further distribution, in the jurisdiction of destination or by a tribal gaming authority in the jurisdiction of destination;

(2) A federal, state or tribal gaming regulatory authority or law enforcement agency; or

(3) A testing laboratory authorized by an entity identified within subparagraph (2) of this paragraph.

(b) The category I manufacturer and distributor files the information required by subsection 1 on or before the 15th of the month following the month of distribution.

The Commission may publish a list of jurisdictions or licensees to which this exemption does not apply and where category I manufacturers and distributors may not ship gaming devices without prior approval as required by subsection 1 of this Rule.

5. Category I manufacturers and distributors shall obtain and thereafter maintain, a statement by the purchaser under penalty of perjury that each device will be used only for lawful purposes, unless the purchaser is currently licensed by the Commission or comparable agency of another state or tribal gaming agency or the destination is outside the United States.

6. Manufacturers and distributors shall, on or before the 15th day of January of each calendar year, give the Commission a copy of the documentation evidencing registration with the United States Attorney General pursuant to the provisions of the Gaming Devices Act of 1962, 15 U.S.C. 1173, for the ensuing year.

7. An agent of the Commission may inspect:

(a) The premises of manufacturers and distributors and all gaming devices located therein.

(b) All gaming devices for which an application has been filed by a category I manufacturer or distributor pursuant to subsection 1 of this Rule prior to distribution out of this state. Category I manufacturers and distributors shall make the gaming devices subject to such applications available for such inspection.

8. If the Commission does not deny an application filed by a category I manufacturer or distributor for approval to distribute gaming devices out of this state pursuant to subsection 1 within 5 working days of receipt of a complete application, the application will be deemed to be approved.

9. A category I manufacturer or distributor shall keep a record of all shipments made out of state of parts specifically designed for use in a gaming device. The record must include the information set forth in subsection 1, if applicable. A manufacturer or distributor shall not ship parts specifically designed for use in a gaming device to a destination where possession of a gaming device is unlawful.

10. The Commission may, in the Commission's discretion, waive one or more of the requirements of this section upon good cause shown.

11. As used in this section:

(a) “Category I manufacturer or distributor” means any manufacturer or distributor licensed by the Commission that does not qualify as a category II manufacturer or distributor.

(b) “Category II manufacturer or distributor” means any manufacturer or distributor that:

(1) Is and has been licensed in good standing by the Commission for the preceding five years;

(2) Is and has been licensed, registered, approved or qualified in at least ten other domestic United States or tribal jurisdictions for the preceding three years

(3) Maintains pursuant to or consistent with the requirements of these Rules a compliance review and reporting system;

(4) Has annual gross sales exceeding \$5 Million Dollars for such licensee’s preceding fiscal year;

(5) Maintains an office or other facility in the state of Arkansas at which the records required by this Rule are stored and may be inspected and copied by the Commission.

(6) Did not during the preceding year exclusively distribute used gaming devices. As used in this subparagraph, “used gaming devices” means gaming devices previously used or played in a gaming operation in Arkansas, including such devices that have been in any way modified or refurbished since original manufacture.

(c) “Current customer” means a person to whom the applicable manufacturer or distributor has shipped or delivered a gaming device within the preceding six months pursuant to a contract, agreement or other arrangement with such manufacturer or distributor, or its affiliate, for the purchase, lease, license or other right to use such gaming device.

**12.190 Approval for certain licensees to sell or dispose of gaming devices.**

1. A licensee, other than a manufacturer and distributor, shall not dispose of gaming devices without the prior written approval of the DF&A, unless the devices are sold or delivered to its affiliated companies or a licensed manufacturer or distributor, in which case approval is deemed granted.

2. A licensee, other than a manufacturer and distributor, shall not request approval to sell or deliver gaming devices to a person other than its affiliated companies or a licensed manufacturer or distributor unless the devices have been marked pursuant to these Rules.

3. Applications for approval to sell gaming devices under this Rule must be made, processed, and determined in such manner and using such forms as the DF&A may prescribe. Each application must include the information required by these Rules, in addition to such other items or information as the DF&A may require.

4. Applications for approval to dispose of gaming devices under this Rule must be made, processed, and determined in such manner and using such forms as the DF&A may prescribe.

**12.200 Maintenance of gaming devices.** A licensee shall not alter the operation of approved gaming devices and shall maintain the gaming devices in a suitable condition. Each licensee shall keep a written list of repairs made to gaming devices offered for play to the public that require a replacement of parts that affect the game outcome and shall make the list available for inspection by the Commission upon the Commission’s request.

### **12.210 Approval of promotional devices; applications and procedures.**

1. As used in this section, “promotional device” means a contrivance that resembles a gaming device or slot machine that:

- (a) Is playable without a wager being made; or
- (b) Always pays out an amount in either cash or prizes that is equal to or greater than the wager made.

2. A manufacturer or distributor shall not distribute a promotional device for use in this state and a Casino licensee shall not offer a promotional device for play to the public unless the promotional device has been approved by the Commission. A restricted licensee shall not offer a promotional device for play to the public unless the promotional device and the use of the promotional device have both been approved by the Commission.

3. Applications for approval of promotional devices must be made, processed, and determined in such manner and using such forms as the Commission may prescribe. Each application must include, in addition to such other items or information as the Commission may require:

(a) A complete, comprehensive, and technically accurate description and explanation of the manner in which the device operates and complies with all applicable statutes, regulations and technical standards, signed under penalty of perjury;

(b) The name and permanent address of the purchaser if the purchaser is currently licensed by the Commission;

(c) The name, permanent address, social security number, and driver’s license number of the purchaser if the purchaser is not currently licensed by the Commission. If the purchaser does not have a social security number or driver’s license number, the purchaser’s birth date may be substituted;

(d) The quantity and the serial numbers of the promotional devices being sold or distributed; and

(e) A statement by the purchaser under penalty of perjury that the device will be used only for lawful purposes.

### **12.220 Summary suspension of approval of gaming devices and inter-casino linked systems.**

1. The Commission may issue a summary order, with or without notice to the manufacturer, distributor, operator, or licensee, suspending approval of a gaming device or inter-casino linked system if it determines that the device or inter-casino linked system does not operate:

(a) In the manner certified by the manufacturer pursuant to section 14.090;

(b) As approved by the Commission; or

(c) As approved by the Commission, if the device has been modified since initial approval of the device or inter-casino linked system.

2. After issuing an order pursuant to subsection 1, the Commission may seal or seize all models of that gaming device or inter-casino linked system Arkansas.

### **12.230 Approval of new games and game variations; applications and procedures.**

1. A licensee shall not offer a new game for play unless the new game has been approved by the Commission. A licensee shall not offer a game variation for play unless the game variation has been approved in writing by the Commission.



2. Applications for approval of a new game or game variation must be made and processed in such manner and using such forms as the Commission may prescribe. The applicant seeking approval of the new game or game variation shall pay the cost of the investigation. Each application must include, in addition to such other items or information as the Commission may require:

(a) The name, permanent address, social security number, and driver's license number of the person developing the new game or game variation. If the person developing the new game or game variation does not have a social security number or a driver's license number, the person's birth date may be substituted;

(b) The name of the game which must be different than the name of a game currently approved by the Commission;

(c) A description of the new game or game variation, including the rules of play, the proposed schedule of payouts, and a statistical evaluation of the theoretical percentages of the game; and

(d) All materials relating to the results of the registered independent testing laboratory's inspection and certification process that are required under these Rules.

#### **12.240 Field trials of new games and game variations.**

1. The Commission may allow or require that a new game or game variation to be tested at a licensed gaming establishment for not more than 180 days under terms and conditions that the Commission may approve or require.

2. The Commission may order termination of the test period, if the Commission determines, in the Commission's sole and absolute discretion, that the developer of the new game or the licensed gaming establishment has not complied with the terms and conditions of the order allowing or requiring a test period.

**12.250 Final approval of new games.** The Commission shall recommend to the Commission whether the application for approval of the new game should be granted. In considering whether a new game will be given final approval, the Commission shall consider whether approval is consistent with the public policy of this state.

#### **12.260 Approval of associated equipment; applications and procedures.**

1. Unless otherwise waived pursuant to subsection 2, a manufacturer or distributor of associated equipment shall not distribute associated equipment unless it has been approved by the Commission. Applications for approval of associated equipment shall be made and processed in such manner and using such forms as the Commission may prescribe. Each application must include, in addition to such other items or information as the Commission may require:

(a) The name, permanent address, social security number, and driver's license number of the manufacturer or distributor of associated equipment unless the manufacturer or distributor is currently licensed by the Commission. If the manufacturer or distributor of associated equipment is a corporation, the names, permanent addresses, social security numbers, and driver's license numbers of the directors and officers must be included. If the manufacturer or distributor of associated equipment is a partnership, the names, permanent addresses, social security numbers, and driver's license numbers of the partners and their partnership interest must be included. If social security numbers or driver's license numbers are not available, the manufacturer's or distributor's birth date may be substituted;

(b) A complete, comprehensive and technically accurate description and explanation in both technical and lay language of the associated equipment or a modification to previously approved associated equipment and its intended usage, signed under penalty of perjury;

(c) Detailed operating procedures for the associated equipment;

(d) The standards under which such tests were performed, including Technical Standards 2 and 3 if applicable, and the results of such testing that confirms the associated equipment is functioning as represented, signed under penalty of perjury; and

(e) All materials relating to the results of the registered independent testing laboratory's inspection and certification process that are required under these Rules.

2. Except as provided in subsection 3, upon written request from the manufacturer or distributor of associated equipment, or as the Commission otherwise deems reasonable, the Commission may, in the Commission's sole and absolute discretion, waive the approval requirement for associated equipment upon such terms and conditions that the Commission may approve or require or refer the associated equipment to the full Commission for consideration of approval.

3. Except as otherwise provided in subsection 4, the Commission shall not grant an approval pursuant to these Rules or waive such approval requirement pursuant to these Rules with respect to any associated equipment that, when installed, will allow a patron to use a debit instrument for purposes of making electronic funds transfers from an independent financial institution to a game or gaming device through a cashless wagering system until such time as the appropriate Rules for such transfers are adopted.

4. The Commission may grant approvals pursuant to subsection 1 or waive such approval requirements pursuant to subsection 2 with respect to the use of a prepaid access instrument in conjunction with an approved cashless wagering system.

5. A manufacturer or distributor of associated equipment who becomes aware that associated equipment approved by the Commission no longer complies with the Rules of the Commission or the technical standards adopted pursuant to these Rules shall notify the Commission in writing within 3 business days.

**12.270 Commission evaluation of associated equipment.** The Commission may require transportation of not more than 2 working models of associated equipment to the new game lab of the Commission or some other location for review and inspection. The manufacturer seeking approval of the equipment must pay the cost of the inspection and investigation. The lab may dismantle the associated equipment and may destroy electronic components in order to fully evaluate the equipment. The Commission may require the manufacturer or distributor seeking approval to provide specialized equipment or the services of an independent technical expert to evaluate the associated equipment.

**12.280 Field trial of associated equipment.**

1. The Commission may allow or require that the associated equipment be tested at licensed gaming establishments for not more than 180 days under terms and conditions that the Commission may approve or require. The Commission may allow an additional test period upon written request of the manufacturer or distributor of associated equipment.

2. A manufacturer of associated equipment shall not modify associated equipment during the test period without the prior oral approval of the Commission.

3. The Commission may order termination of the test period, if the Commission determines, in the Commission's sole and absolute discretion, that the manufacturer or the distributor of the associated equipment or licensed gaming establishment has not complied with the terms and conditions of the order allowing or requiring a test period. If the test period is terminated due to the licensed gaming establishment's failure to comply with the terms and conditions of the order allowing or requiring a test period, the Commission may order that the test be conducted at another licensed gaming establishment.

**12.290 Installation of associated equipment.**

1. Except as otherwise provided in these Rules, a licensee shall not install or use associated equipment without prior written approval of the Commission, unless the Commission has waived the approval requirement pursuant to these Rules. Applications for approval to install or use associated equipment shall be made and processed in such manner and using such forms as the Commission may prescribe. The Commission shall not approve any use or installation(s) of associated equipment that allow a patron to use a debit instrument for purposes of making electronic funds transfers from an independent financial institution to a game or gaming device through a cashless wagering system until such time as the appropriate Rules for such transfers are adopted.

2. The Commission may grant approvals for the use of or installation of equipment used in conjunction with prepaid access instruments.

**12.300 Maintenance of associated equipment.** The manner in which previously approved associated equipment operates may be altered only with the prior written approval of the Commission.

**12.302 Manufacturer or distributor of associated equipment; registration of a manufacturer or distributor of associated equipment; application and procedures.**

1. The initial application for registration and the application for renewal of registration shall be made, processed, and determined using such forms as the Commission may require or approve and must be accompanied and supplemented by such documents and information as may be specified or required.

2. Any applications for registration or renewal required under this section shall be prepared and submitted by the relevant manufacturer or distributor of associated equipment.

3. Fee Structure and Registration Period.

(a) Upon submission of an application for registration as a manufacturer or distributor of associated equipment or renewal application, the applicant shall pay an application fee of \$1,000.

(b) Before the Commission issues an initial registration or renewal of any registration for a manufacturer or distributor of associated equipment, the manufacturer or distributor of associated equipment shall pay an issuance fee of \$1,000.

4. Each registered associated equipment manufacturer or distributor shall inform the Commission in writing of any changes in the ownership, officers, or directors of the manufacturer or

distributor of associated equipment. Reports required under this subsection shall be made to the Commission within 30 days of occurrence.

**12.305 Manufacturer or distributor of associated equipment; determination of suitability.**

1. In addition to the requirements of this Rule requiring a manufacturer or distributor of associated equipment to be registered, the Commission may require a manufacturer or distributor of associated equipment who sells, transfers or offers the associated equipment for use or play in Arkansas to file an application for a finding of suitability to be a manufacturer or distributor of associated equipment.

2. The Commission may require any person who directly or indirectly involves himself or herself in the sale, transfer or offering for use or play in Arkansas of such associated equipment who is not otherwise required to be licensed as a manufacturer or distributor to file an application for a finding of suitability to be a manufacturer or distributor of associated equipment.

3. The Commission shall give written notice of its decision to require the filing of an application for a finding of suitability under subsection 1 and/or 2.

4. All investigative costs and fees associated with applications for a finding of suitability are owed by the party required to file the application for a finding of suitability. Failure to remit such costs and fees within such periods set by the Commission, upon the advice of the Commission, will result in a lapse of the registrations of the applicable manufacturer or distributor of associated equipment and will constitute an unsuitable method of operation. Where the party required to file an application to manufacture or distribute associated equipment is not registered, failure to pay such investigative costs and fees is grounds for denial of any application associated with such manufacture or distribution of associated equipment.

5. Failure of any party described in subsections 1 or 2 to submit an application for a finding of suitability within 30 days of being demanded to do so by the Commission shall constitute grounds for a finding of unsuitability of that party.

6. If the Commission finds any manufacturer or distributor of associated equipment, as described in subsection 1, or any person, as described in subsection 2, to be unsuitable under this section:

(a) The registration of such manufacturer or distributor is thereupon revoked as a matter of law;

(b) Any applications for registration as a manufacturer or distributor of associated equipment associated with a party which is found unsuitable are deemed denied as a matter of law; and

(c) All Casino licensees shall, upon written notification from the Commission, terminate any existing relationships, direct or indirect, with such unsuitable parties.

7. Failure of a Casino licensee to terminate any association or agreement, direct or indirect, with any party found unsuitable upon receiving written notice of the determination of unsuitability constitutes an unsuitable method of operation.

8. Failure of a registered manufacturer or distributor of associated equipment to terminate any association or agreement with any party found unsuitable upon receiving written notice of the

determination of unsuitability shall constitute grounds for the revocation of the registration of the manufacturer or distributor of associated equipment.

9. The Commission retains jurisdiction to determine the suitability of any party described in subsections 1 or 2 regardless of whether or not that party has severed any relationship with a Casino licensee or registered manufacturer or distributor of associated equipment.

**12.310 Retention of records.** Unless otherwise specified, all records required by this Rule must be maintained for 5 years.

**End – Rule 12**