

TITLE 4.
CALIFORNIA GAMBLING CONTROL COMMISSION

**NOTICE OF PROPOSED REGULATORY ACTION AND PUBLIC HEARING
CONCERNING
MINIMUM INTERNAL CONTROL STANDARDS (MICS)
FOR GAMBLING ESTABLISHMENTS:
FIRE SAFETY, SECURITY AND SURVEILLANCE.**

CGCC-GCA-2009-06-R

NOTICE IS HEREBY GIVEN that the California Gambling Control Commission (Commission) is proposing to take the action described in the Informative Digest. Any interested person, or his or her authorized representative, may present statements or arguments orally or in writing relevant to the action proposed at a public hearing to be held at 10:00 a.m. on August 11, 2009, at 2399 Gateway Oaks Drive, First Floor Hearing Room, Sacramento, CA 95833-4231.

WRITTEN COMMENT PERIOD

Written comments relevant to the proposed regulatory action, including those sent by mail, facsimile, or e-mail, may be submitted to the Commission at any time during the public comment period, or may be received by the Commission at the above referenced hearing. To be eligible for the Commission's consideration, all written comments must be **received at its office no later than 5:00 p.m. on August 11, 2009**. Written comments not submitted at the hearing should be directed to one of the individuals designated in this notice as a contact person. **Comments sent to persons and/or addresses other than those specified under Contact Persons, or received after the date and time specified above, will be included in the record of this proposed regulatory action, but will not be summarized or responded to regardless of the manner of transmission.**

ADOPTION OF PROPOSED ACTION

After the close of the public comment period, the Commission, upon its own motion or at the instance of any interested party, may thereafter formally adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit oral or written testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 19801(g), 19811, 19824, 19826(b), 19840, 19841, 19856(c), 19857 and 19924 of the Business and Professions Code; and to implement, interpret or make specific sections 19801, 19823, 19827, 19841, 19856(c), 19857, 19860, 19912, 19920, 19922 and 19924 of the Business and Professions Code, and sections 13143(a) and 13143.5 of the Health and Safety Code; the Commission is proposing to adopt the following changes to Chapter 7 of Division 18 of Title 4 of the California Code of Regulations:

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

INTRODUCTION:

The Commission is the state agency charged with the administration and implementation of the California Gambling Control Act (Act).¹ The Commission is authorized to adopt regulations governing the operation of gambling establishments (cardrooms) in California.² Specifically, the Commission is mandated to adopt regulations on the subjects enumerated in Business and Professions Code,³ section 19841. Regulations concerning the establishment of minimum policies and procedures by owner licensees to exercise effective control over their gambling affairs have been prepared in compliance with section 19840⁴ and subdivisions (h) and (o) of section 19841.⁵

In general, the proposed action has been drafted in an attempt to establish uniform procedures and standards to assist the Commission and the Bureau of Gambling Control within the Department of Justice (Bureau) in meeting their oversight responsibilities under the Act, while taking into account the variations in size of gaming operations. More importantly, the proposed action is intended to provide for minimum standards that protect public health and safety and maintain security controls over the gambling premises.⁶ These regulations establish a baseline for cardroom operation, by requiring that licensees establish and implement written policies and procedures that meet or exceed the prescribed Minimum Internal Control Standards (MICS), as they relate to the established size category of the individual licensee. Establishing a baseline standard helps to ensure consistency and uniformity.

SPECIFIC PROPOSAL:

In September 2007, a joint Commission/Bureau Workgroup was formed to develop MICS regulations for cardrooms. The workgroup has discussed general MICS requirements and

¹ Business and Professions Code, Division 8, Chapter 4, section 19800 et seq.

² Business and Professions Code section 19840.

³ All statutory references are to the Business and Professions Code, unless otherwise specified.

⁴ Section 19840 provides, in pertinent part, that “[t]o the extent appropriate, regulations of the Commission ... shall take into consideration the operational differences of large and small establishments.”

⁵ Subdivision (h) of section 19841 mandates that the Commission’s regulations shall “[p]rescribe minimum procedures for adoption by owner licensees to exercise effective control over their internal fiscal and gambling affairs,...” as specified. Subdivision (o) of section 19841 mandates that the Commission’s regulations shall “[r]estrict, limit, or otherwise regulate any activity that is related to the conduct of controlled gambling, consistent with the purposes of this chapter.

⁶ Business and Professions Code, sections 19920 and 19924.

researched MICS requirements from other states. Due to the number of subjects and complexity of the MICS requirements, the workgroup segregated the requirements into separate subject areas in order to pursue regulations in phases according to priority. Those subjects and phases, in order of priority, are:

Phase

- I. General Terms, Conditions & Definitions; Policies & Procedures; Drop & Drop Collection; Count & Count Room Functions; and Cage Functions
- II. Fire Safety, Security & Surveillance
- III. Gambling Floor Operations & Play of Table Games
- IV. Chips, Cards & Other Gambling Equipment
- V. Personnel & Tips
- VI. Information Technology Systems
- VII. Adequate Financing; Player-Dealer Banks, & Jackpots

Multiple phases are being considered simultaneously and are currently in various stages of development. It is intended that each phase will be taken up, formally, in the order listed above.

In December, 2007, the workgroup completed an initial draft proposal for these Phase II MICS (Fire Safety, Security and Surveillance) and scheduled an informal public comment session to solicit comments from the industry on April 10, 2008. All comments were recorded and categorized, and were considered in the further development and refinement of this Phase II proposal. A modified draft proposal was completed and again distributed to interested parties on October 3, 2008. Additional written comments were again solicited, with this second informal comment period ending on October 17, 2008. Further revisions were made to accommodate many of the comments and suggestions received. At a meeting before the Commission on April 22, 2009, it was agreed that additional public comments and recommendations would be considered. As a result, final revisions were made, and these proposed Fire Safety, Security and Surveillance regulations were then formed.

At a meeting on May 20, 2009, the Commission authorized staff to initiate the formal rulemaking process for these proposed regulations.

EXISTING LAW:

Within Article 2 of Chapter 7, Section 12370 currently provides specific emergency preparedness and evacuation plan requirements for cardrooms. This section defines the terms “critical incident” and “plan”, and requires cardrooms to develop and implement an emergency preparedness and evacuation plan that addresses specific emergencies, necessary equipment, evacuation charts and employee training. These requirements are outdated and may not be consistent with those of the State Fire Marshal.

EFFECT OF REGULATORY ACTION:

This proposed action will make the following changes within Article 2 of Chapter 7 of Division 18 of Title 4 of the California Code of Regulations:

1. This proposed regulatory action would amend Section 12370 by simply requiring cardrooms

to comply with the emergency planning regulations of the State Fire Marshal (Title 24 CCR, Part 9, Ch. 4 and Title 19, Section 3.09). These amendments would also require cardrooms to submit copies of their *fire safety and evacuation plan* to the Commission upon initial application for a license, biennially upon license renewal, and when specified changes are made to their plan. Consistent with the existing language of Section 12370, submitted fire safety and evacuation plans must show evidence of approval from a local authority or the State Fire Marshal. Also consistent with existing language, these amendments would constitute an unsuitable method of operation if a cardroom does not implement their plan and conduct emergency evacuation drills and employee training pursuant to their plan.

2. This proposed action would establish new Section 12372, which would require all cardrooms to adopt a *security and surveillance plan*. The required elements of the plan are increased with the relative size of the cardroom by assigning tiers that are based on the cardroom's number of authorized tables. Five specific licensee tiers have been established in a prior rulemaking package⁷. Smaller cardrooms (Tiers I & II) would be required to establish monitoring and control systems that restrict access to sensitive areas, establish security and video surveillance procedures, provide for lighting in and around the cardroom, and establish procedures for protecting patrons and property. In *addition* to these requirements, medium to large size cardrooms (Tiers III – V) would be required to designate security staff, have uniformed security guards, and provide regular training for security and surveillance personnel.

All tiers would be required to submit copies of their security and surveillance plan to the Commission upon initial license application, biennially upon license renewal, and whenever specified revisions are made to their plan. If local authorities provide reviews of these plans, the cardroom is required to provide the results of the review. The Bureau is also required to review the cardroom's plan and identify any deficiencies.

Cardrooms are also required to annually review the elements of the plan with those employees who have duties under the plan.

Finally, Section 12372 would constitute an unsuitable method of operation if a cardroom does not implement the elements of their plan and assess a civil penalty for violations of the section.

This proposed action will also make the following changes within Article 3 of Chapter 7 of Division 18 of Title 4 of the California Code of Regulations:

1. This proposed action would establish new Section 12395, which would require cardrooms to adopt specified security *procedures* that are again increased with the relative size of the cardroom. All cardrooms would be required to restrict access to sensitive areas, provide adequate lighting of all public areas, file incident reports with the Bureau under specified circumstances, and control keys to restricted areas. In *addition*, medium to large size cardrooms (Tiers III – V) would be required to maintain a key control box and have uniformed security outside the cardroom at night. In *addition*, the larger size cardrooms

⁷ See MICS I rulemaking package, subsection (d) of Section 12380.

(Tiers IV & V) would be required to have backup generator systems and uniformed security during all hours of operation.

2. This proposed action would also establish new Section 12396, which would require cardrooms to adopt specified surveillance *procedures* that also increase with the relative size of the cardroom. All cardrooms would be required to video record specified critical gambling operation activities, have video equipment that meets specified parameters, maintain video recordings for a specified time, allow the Bureau access to the video recordings, and display signs that alert patrons to the video monitoring. In *addition*, Tiers II through V cardrooms would be required to video record cardroom entrances and exits and dedicate cameras to gambling tables. In *addition*, Tiers III through V cardrooms would be required to video record parking areas. In *addition*, the largest cardrooms (Tier V) would be required to establish a dedicated surveillance room, dedicated surveillance staff, and adhere to specified video equipment and operating parameters.
3. The proposed action will also require licensees to establish and implement the applicable standards specified in Sections 12395 and 12396 by a date certain (approximately six months after the effective date of those regulations).

FISCAL IMPACT ESTIMATES

FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES OR COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE:

None.

NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES:

None.

MANDATE IMPOSED ON LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT:

None.

COST TO ANY STATE OR LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT:

None.

IMPACT ON BUSINESS:

The Commission has made an initial determination that the adoption of these regulations may have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

There may be cardrooms that do not already have internal control standards and/or equipment in place that are in compliance with the minimum standards proposed by these regulations.

Based on the size of the cardroom, these proposed regulations will require that cardrooms:

1. Comply with the emergency planning regulations of the State Fire Marshal; and
2. Adopt a security and surveillance plan that includes lighting in and around the cardroom, security monitoring and control systems, video surveillance procedures and systems, have a backup generator system, have uniformed security guards, designate surveillance staff and provide regular training for security and surveillance personnel.

The Commission has not considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit such proposals. Submissions may include the following considerations:

1. The establishment of differing compliance or timetables that take into account the resources available to businesses;
2. Consolidation or simplification of compliance requirements for businesses;
3. The use of performance standards rather than prescriptive standards; and
4. Exemption or partial exemption from the regulatory requirements for businesses.

The rulemaking file includes the facts, evidence, documents, testimony, and/or other evidence that supports this determination.

IMPACT ON JOBS/NEW BUSINESSES:

The Commission has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

The cost impacts that a representative private person or business may incur in reasonable compliance with the proposed action, and that are known to the Commission include:

1. The requirement for a key control box, video surveillance system and backup generator ;
and
2. The possible need for additional staff to comply with security and surveillance requirements.

EFFECT ON HOUSING COSTS:

None.

EFFECT ON SMALL BUSINESS:

The Commission has determined that the proposed regulatory action may affect small businesses, if any cardroom qualifies as a small business and does not already have internal control standards in place which satisfy the minimum standards proposed by these regulations.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Commission must determine that no reasonable alternative considered by the Commission or that has otherwise been identified and brought to the attention of the Commission would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

INITIAL STATEMENT OF REASONS, INFORMATION AND TEXT OF PROPOSAL

The Commission has prepared an Initial Statement of Reasons and the exact language for the proposed action and has available all the information upon which the proposal is based. Copies of the language and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request to the Commission at 2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231.

AVAILABILITY AND LOCATION OF THE RULEMAKING FILE AND THE FINAL STATEMENT OF REASONS

All the information upon which the proposed action is based is contained in the Rulemaking File that will be available for public inspection and copying at the Commission's office throughout the rulemaking process. Arrangements for inspection and/or copying may be made by contacting the backup contact person named below.

Upon its completion, the Final Statement of Reasons will also be available. A copy of the Final Statement of Reasons may be obtained, once it has been prepared, by making a written request to one of the contact persons named below or by accessing the Commission's Web site listed below.

CONTACT PERSONS

All comments and inquiries concerning the substance of the proposed action should be directed to the following **primary** contact person:

James B. Allen, Regulatory Actions Manager
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231
Telephone: (916) 263-4024
Fax: (916) 263-0499
E-mail: Jallen@cgcc.ca.gov

Requests for a copy of the Initial Statement of Reasons, proposed text of the regulation, modified text of the regulation, if any, or other technical information upon which the proposed action is based should be directed to the following **backup** contact person:

Joy Calkin, Staff Services Analyst
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231
Telephone: (916) 263-0700
Fax: (916) 263-0452
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WEB SITE ACCESS

Materials regarding this proposed action are also found on the Commission's Web site at www.cgcc.ca.gov.