

CALIFORNIA GAMBLING CONTROL COMMISSION
FINAL STATEMENT OF REASONS
CGCC-GCA-2013-04-R

HEARING DATE:

January 29, 2014

SUBJECT MATTER OF PROPOSED REGULATIONS:

Minimum Internal Control Standards (MICS) for Gambling Establishments – Phase IV; Cage Operation and Functions; Security of Floor Banks, Gambling Equipment and Confidential Documents

SECTIONS AFFECTED:

California Code of Regulations, Title 4, Division 18, Chapter 7: Sections 12360, 12386 and 12387

UPDATED INFORMATION:

The Initial Statement of Reasons, as published on October 18, 2013, is included in the file and is hereby incorporated by reference as if fully set forth herein. The information contained therein is updated as follows:

PROPOSED ACTION:

This proposed action makes the following specific changes within Division 18 of Title 4 of the California Code of regulations:

Section 12360. Chapter Definitions.

In Article 1 of Chapter 7, Section 12360 provides definitions for numerous terms that govern the construction of the chapter. This section incorporates the definitions in Business and Professions Code section 19805 and Section 12002 of Chapter 1, and includes specific definitions for the words and phrases “gaming activity,” “house rules,” “licensee,” “security department” and “surveillance unit.” This proposed action adds definitions for several new terms that will be used in Article 3. The proposed amendments to Section 12360 are as follows:

1. A new subsection (a) is added with a definition for the term “cage bank.” The definition of this term is being added as a convenient means of referring, in general, to the monetary content, including gambling chips, cash and cash equivalents, that is held in a cage.

2. A new subsection (b) is added with a definition for the term “cashier bank.” The definition of this term is being added as a convenient means of referring, in general, to the individual imprest fund assigned to an individual cashier inside a cage.
3. A new subsection (c) is added with a definition for the term “confidential document.” The definition of this term is being added as a convenient means of referring to several different types of documents, records or writings with similar characteristics, whether maintained in writing or electronically. This includes documents that contain any private financial or personal information directly obtained from or provided by the subject (e.g., patron credit and check cashing information, exclusion lists, Title 31 report forms, etc.) concerning any individual or group of individuals, or information or documents that are otherwise protected under any other provision of law (e.g., Title 1.81 (commencing with § 1798.80) of Part 4, Division 3 of the Civil Code). Also included are documents or information the public disclosure of which may jeopardize the safety and security of patrons, employees and their property, or the assets of the gambling enterprise, or the integrity of gambling operations.
4. A new subsection (d) is added with a definition for the term “floor bank.” The definition of this term is being added as a convenient means of referring, in general, to an individual imprest fund kept on or near the gambling floor.
5. A new subsection (e) is added with a definition for the term “gambling equipment.” The definition of this term is being added as a convenient means of referring to gambling equipment, in general. Gambling equipment may include playing cards, tiles, dice, dice cups, card shufflers, gaming tables, or any other equipment or supplies used or intended for use in the play of any controlled game.
7. As a result of the additional definitions proposed by this action in the new subsections (a) through (e), the pre-existing subsections (a) through (e) are renumbered accordingly as subsections (f) through (j).

Section 12386. Cage Operation and Functions.

In Article 3 of Chapter 7, Section 12386 prescribes the MICS that must be addressed in licensees’ policies and procedures relative to the operation and functions of cages. These include standards for cage location, design and construction; security and accountability; staffing and access; activity reconciliation; and, surveillance. The scope and complexity of many of these standards progressively escalate with the higher tiers.

1. Paragraph (1) of subsection (a) is amended to clarify that the public does not have access to enter a cage. When a room or area is referred to as being “accessible to the public” it usually means, or at least implies that members of the public may enter the room or area. However, not only are patrons (the public) not allowed inside a cage but a cage is specifically required to be made secure in order to keep them out. Language would be added to clarify that the purpose of a cage is to provide a convenient location in which to conduct patron transactions while maintaining security and accountability for not just funds, but also for monetary transactions occurring at a cage and all cage contents.

2. Paragraph (2) of subsection (a) is amended to clarify that the names of gambling enterprise employees who work in a cage are not required to be included in the organizational charts of the gambling enterprise. To make this clear, the word “designated” is changed to “assigned” throughout this paragraph, and the second sentence is reworded to indicate that the titles, classifications or positions of all cage employees must be listed on the organizational charts.

In addition, the reference to the duties of cage employees is changed to provide that those employees’ duties “may include any or all of” the specific duties enumerated in this paragraph. As currently written, the sentence uses the terms “shall include” and “any or all” in referring to the specified duties. As used in statutes, contracts, regulations, etc., “shall” is generally imperative or mandatory, but “any or all,” suggests permissiveness or discretion and, in the context of this regulation, is inconsistent with the term “shall.” On the other hand, “may” is usually indicative of discretion or choice between two or more alternatives. Substituting “may” for “shall” will correct the inconsistency, improve clarity and eliminate potential confusion.

Further clarification of those specified duties is also provided, as follows:

- Subparagraph (A) is amended to refer to the custody of the “cage inventory,” and the references to “individual cage drawer inventory” and “individual cage drawer” are changed to “individual cashiers’ banks” and “cashier’s bank,” respectively. This will provide consistency in the use of terms throughout this regulation as well as improved clarity in this subparagraph.
- Subparagraph (B) is amended to refer to the “receipt and “distribution” of gambling chips “through internal operations” for clarity. In the current text, receipt was intended to refer to not only the receipt of chips from the vault or count room, but also receipt from patrons (for redemption). Distribution was intended to include the sale of chips to patrons and the return of chips to storage. The intended inclusiveness of these terms has been found to be potentially confusing. Therefore, the terms “receipt” and “distribution” are being limited to the internal operations of receiving chips from the vault or count room and the return of chips to storage. A new subparagraph (C) is added to address the sale and redemption of gambling chips through transactions with patrons, and the subsequent existing subparagraphs are renumbered accordingly.
- Subparagraph (D) [formerly (C)] is amended with the addition of the qualifying phrase, “if applicable” for clarity. Not all cardrooms have or use players’ banks or dealers’ banks. It should be made clear that this duty or responsibility would not apply if those banks are not used or do not exist.
- Subparagraph (G) [formerly (F)] is amended to delete incorrect citations to the Code of Federal Regulations (CFR). This amendment conforms to recent amendments in the CFR. On March 1, 2011, the Financial Crimes and Enforcement Network (FinCEN) transferred its regulations from 31 CFR Part 103 to 31 CFR Chapter X as part of an

ongoing effort to increase the efficiency and effectiveness of its regulatory oversight. 31 CFR Chapter X is organized by generally applicable regulations and by industry-specific regulations. The provisions that are applicable to casinos and card clubs (cardrooms), including former sections 103.21, 103.22, 103.23, 103.63 and 103.64, are now found in 31 CFR Chapter X, Part 1021. There were no substantive changes made to the underlying CFR regulations as a result of this transfer and reorganization.

The clause “and any successor provisions” is added in order to avoid any conflict or inconsistency should there be any future changes to the applicable federal regulations. Cardrooms are already required to comply with Title 31 of the CFR, and any successor provisions, pursuant to section 14162(b) of the Penal Code. In addition, Section 12404 currently mandates compliance with 31 USC sections 5313 and 5314, and 31 CFR sections 103.21, 103.22, 103.23, 103.63 and 103.64, and any successor provisions. Adding the phrase “and any successor provisions” here is consistent with Section 12404. This is an appropriate change because the Commission has no control over future amendments to federal regulations.

These changes have no regulatory effect as they are merely conforming and clarifying in nature and do not impose any additional requirements on affected parties.

- Subparagraph (H) [formerly (G)] is amended to clarify that the cage employees’ duties may include not only accounting and safeguarding of banks, but also gambling equipment and confidential documents, when that equipment or those documents are kept in a cage. Cage content may include, but is not necessarily limited to, the cage bank, cashiers’ banks, and gambling equipment and confidential documents. Since gambling equipment and confidential documents are permitted to be, and often are kept in a cage, their protection is just as important as the protection of funds (banks).
3. Paragraph (3) of subsection (a) is amended to clarify that it is applicable to both physical cages and areas designated as cages, pursuant to paragraph (1), and that routine access is to be limited to the cage personnel assigned pursuant to paragraph (2). Since Tier I, II and III cardrooms are not required to maintain a physically separate cage, but must, at a minimum, designate an area in the cardroom to function as a cage, this clarification is necessary to avoid the possible misinterpretation that limiting routine access does not apply to cardrooms in Tiers I, II and III, if they do actually maintain a physically separate cage. This clarification also helps to maintain consistency throughout this regulation since the provisions of subsection (a) are applicable to all tiers.

Further clarification is added by changing the term “gambling establishment” to the correct term, “gambling enterprise,” and adding “key employee” to the list of license types held by other gambling enterprise employees who may be given access to a cage for the purpose of performing their assigned duties.

4. Paragraph (4) of subsection (a) is amended to allow a cage access log to be maintained either in writing or electronically. This change is intended to provide greater flexibility for licensees by allowing them to take advantage of modern technology.
5. Paragraph (5) of subsection (a) is amended to specify that it is the cage and cashiers' banks that are to be reconciled, not all cage "activity." The requirement to summarize all cage transactions is deleted since reconciliations of recordable transactions are already required, making the summarization duplicative and unnecessarily burdensome. The definition of the word "shift" is also deleted as it is unnecessary and not consistent with shift assignments and designations in all cardrooms statewide.

To ensure that reconciliations will continue to be documented in Tier I and Tier II cardrooms, the requirement to document the reconciliation in paragraph (2) of subsection (b) is moved to paragraph (5) of subsection (a) as a new subparagraph (B) and the current text of paragraph (5) becomes subparagraph (A). Subparagraph (B) then requires cardrooms in all tiers, including Tiers I and II, to document their reconciliation of each cage and cashier's bank on a cage accountability form including minimal basic information, as specified.

Added to the specified information to be included in the cage accountability form is the recording of the amounts assigned or issued from the cage to dealers' banks and floor banks in use during the applicable shift. There are often amounts assigned to dealer banks and floor banks from the cage bank, and those amounts should be included in the cage accountability form. However, cage shifts and the shifts of dealers and chip runners are not always the same, so cage personnel do not go out on the gaming floor and count down the dealer banks or the floor banks as part of the cage reconciliation. Dealer banks and floor banks are reconciled according to the assigned dealer's or chip runner's shift. For those reasons, it is not possible or practical to include in the cage accountability form an actual count or reconciliation of each dealer bank and floor bank. What the cage accountability form can and should show is what has been assigned to those banks.

In the relocation of paragraph (2) of subsection (b), the accounting referred to therein [subparagraph (C)] is amended for clarity to apply to the cage and cashiers' banks, and *if applicable*, players' banks. In the detail of what is to be included in the accounting, "credits" and "debits" would be deleted and replaced with "all transactions recordable to the general ledger." Also included in the relocation of paragraph (2) of subsection (b), the confusing parenthetical in subparagraph (D) is deleted and "as applicable" added at the end of the sentence to provide for instances when both the incoming and outgoing employees' signatures are not required.

These changes would not require the affected cardrooms (Tiers I and II) to do anything differently or record any additional information because the applicable information that is required to be recorded in a cage accountability form is the same basic information that should be recorded currently by those cardrooms.

6. A new paragraph (7) is added to subsection (a) to specify that in instances where a licensee operates multiple cages during any shift, all cages, irrespective of their designation (e.g.,

main cage, satellite cage, auxiliary cage, supplementary cage, secondary cage, back up cage, support cage, temporary cage, etc.), shall be subject to and comply with all applicable provisions of this article.

A cage is the primary area on or near the gambling floor where cash and cash equivalents are kept, as patrons exchange their cash for chips, cash checks, or access their players' banks through a cage. In addition, patrons often fill out required IRS forms or credit request forms at a cage, which are then kept in the cage until they can be transmitted to the accounting department. Thus, cash, cash equivalents and sensitive information is regularly kept in this area. It is necessary and appropriate that these areas be kept secure through video surveillance and restrictions on access by non-authorized personnel, as well as internal controls such as segregation of duties, record keeping and reconciliations. All of the same considerations and concerns exist whether a cage is operated as a main cage or as a satellite cage. Consequently, it is reasonable and appropriate to require that the same minimum internal control standards apply to all cages and cage areas maintained and operated by a licensee, according to the licensee's respective tier.

7. Paragraph (1) of subsection (b) is deleted as it specifies that only cardrooms in Tiers III through V are required to maintain continuous recorded video surveillance of cages and cage activities. However, paragraph (1) of subsection (a) of Section 12396 provides that "cage and cashier activities" shall be subject to recorded video surveillance in all tiers. Thus, the two provisions are in conflict with each other. This conflict creates consistency and clarity issues which are resolved by deleting paragraph (1) of subsection (b).
8. With the deletion of paragraph (1) and the relocation of paragraph (2), the remaining paragraph (3) becomes the whole of subsection (b). Subsection (b) is amended to require that cardrooms in Tiers III through V have the reconciliations specified in paragraph (5) of subsection (a) posted to the general ledger by someone other than an assigned cage employee or cage supervisor. This separation of duties is intended to assist in preserving the integrity of the reconciliation. It is applicable to Tiers III through V because the cardrooms in lower tiers are so small that they will rarely, if ever, have the additional employees necessary to comply with this requirement.
9. Paragraph (1) of subsection (c) is amended to better describe the design and function of a cage for Tiers IV and V by specifying that it must be a secure enclosed structure with at least one window for processing transaction with patrons. A new subparagraph (A) is added to provide that cage windows must be secure and designed to prevent entry into, or theft from, the cage. These changes add clarity to and make explicit the original intent of this provision which was, and continues to be, that a cage in a Tier IV or Tier V cardroom be operated out of a separate secure, enclosed room.
10. Paragraph (2) of subsection (c) is amended to clarify that these provisions are in addition to the information required to be included in the cage accountability form referenced in paragraph (5) of subsection (a), and the reference to beginning and ending balances is deleted as that specification is unnecessary.

Subparagraph (C) of paragraph (2) is also amended to clarify that the “amount,” rather than the “source,” of other items of monetary value is to be itemized. The need to list other items of monetary value in the cage accountability form is clear, but it is not clear what is meant by the phrase “specifying the source of each.” From the examples given, the source should be self-evident; patron checks are issued by patrons, players’ banks are funded by players. Instead of specifying the “source,” it is more relevant to specify the “amount” of each. Reference to “dealers’ banks” and “chip runner’s banks” (floor banks) are removed from the examples of other items of monetary value.

Subparagraph (D) would be added to address the dealers’ banks and floor (chip runners’) banks by specifically requiring an itemization of the amount assigned to each of those banks. The cage accountability form is prepared by the incoming and outgoing cage personnel every shift. They are responsible for counting down what is in the cage. As previously discussed, there are often amounts assigned to dealer banks and floor banks from the cage bank, and those amounts should be included in the cage accountability form. However, cage shifts and the shifts of dealers and chip runners are not always the same, so cage personnel do not go out on the gaming floor and count down the dealer banks or the floor banks as part of the cage reconciliation. Dealer banks and floor banks are reconciled according to the assigned dealer’s or chip runner’s shift. For those reasons, it is not possible or practical to include in the cage accountability form an actual count or reconciliation of each dealer bank and floor bank. What the cage accountability form can and should show is what has been assigned to those banks.

11. Paragraph (3) of subsection (c) would be amended to allow the names or classifications of employees authorized to access a cage to be recorded either in writing or electronically, and to require that the record be updated each time an assignment is added or deleted. To provide more clarity and flexibility, the word “list” would be changed to “record.” In addition, the phrase “names of all persons designated” would be changed to “names or classifications of all persons assigned,” for added clarity and consistency. This would allow existing records to be used to satisfy this requirement thereby avoiding the need to create an additional list for this purpose. A payroll record or list would be the dynamic list that is updated immediately as changes occur and includes both names and job classifications of employees.
12. Numerous nonsubstantive conforming, editorial and grammatical changes would be made throughout Section 12386 to clarify and ensure that that the provisions of the new paragraph (7) apply to all cages and cage areas, irrespective of their designation, and to provide consistency with provisions of the proposed adoption of Section 12387.

Section 12387. Security and Use of Floor Banks; Security of Gambling Equipment and Confidential Documents.

This proposed action would also establish a new Section 12387 in Article 3 of Chapter 7, which would require cardrooms of all tiers to adopt specified minimum policies and procedures regarding the security and use of floor banks, and the security of gambling equipment and confidential documents, on the gambling floor.

Subsection (a) requires licensees in all tiers to establish policies and procedures to provide for the security of floor banks. Floor banks are generally used throughout the industry to provide certain gambling enterprise employees convenient access to chips and funds on the gaming floor in order to provide services to patrons that would otherwise have to be conducted at a cage. A floor bank will have an imprest value, albeit in an amount typically much less than the amount held in a cage bank. While the total value of the floor bank is less than that of a cage bank, there remains the potential for losses. In some instances, the value of a single floor bank may be as high as \$30,000; possibly even more in high-stakes areas or the largest cardrooms. Therefore, it is necessary and appropriate that precautions be taken to safeguard and properly account for these assets in order to minimize the risk of loss and maintain the integrity of the licensee's assets and financial records.

1. Paragraph (1) of subsection (a) would require that a floor bank, when kept in any public area of a gambling establishment, be secured in a locked receptacle, drawer or compartment. This paragraph would specify that the drawer or compartment shall remain locked, with the key removed, except when being appropriately accessed and that all keys, combinations and access codes shall be subject to the key security and control provisions of Section 12395.
2. Paragraph (2) of subsection (a) would require the lock or locking mechanism of a receptacle, drawer or compartment containing a floor bank to be keyed differently from any other receptacle, drawer or compartment in the gambling establishment. However, when a single gambling enterprise employee requires access to multiple receptacles in the performance of his or her duties, that access is exclusive to that employee during his or her shift, and the receptacles all contain a floor bank, those receptacles may have a key, combination or access code in common with each other. Managers and supervisors would also be permitted to have a duplicate or master key for the receptacles used by the employees they supervise.
3. Paragraph (3) of subsection (a) would require that any cabinet used or intended to be used to contain a floor bank, be located so that it is clearly visible for security and surveillance purposes, and that it be kept under continuous recorded video surveillance with camera coverage that shall be adequate for monitoring and recording the contents of any drawer when open, to the extent reasonably possible, and all activities involving the floor bank. This paragraph would also allow the use of a mobile cabinet and would require that it be kept at a fixed secure location under continuous recorded video surveillance when not being actively used on the gambling floor.
4. Paragraph (4) of subsection (a) would prohibit the commingling of a floor bank with any gambling equipment, documents, supplies or other materials that are not directly related to a floor bank, in the same drawer or compartment. This paragraph would also prohibit the cabinet or any other drawer, compartment or receptacle therein, from being used to store any personal property of any employee, patron, or any other person; or to store any equipment, documents, supplies or other materials that are not directly related to the conduct of gambling operations.

5. Paragraph (5) of subsection (a) would require that each floor bank be individually balanced at least daily and the imprest amount verified. Any shortages or overages would be required to be documented in an exception report and included in the cage bank reconciliation for the shift during which the verification was performed.
6. Paragraph (6) of subsection (a) would require the licensee to establish the maximum imprest amount that may be assigned to each floor bank and would limit the imprest amount that may be assigned to a floor bank in a mobile cabinet to \$30,000. This is an integral element in any system of internal controls. This provision would not interfere with the licensee's discretion in establishing those amounts. Licensees are also free to adjust the amounts assigned to various floor banks as business needs dictate. Retail businesses commonly set limitations on the amount of cash that may be kept in cash drawers or cash registers. Banks limit the amount of cash held in tellers' drawers. This is an important part of protecting assets and limiting the exposure to monetary losses. This is particularly important with respect to floor banks kept in mobile cabinets due to the increased vulnerability created by their mobility.
7. Paragraph (7) of subsection (a) would require the licensee to adopt policies and procedures for the establishment of specific provisions governing the sale or distribution of gambling chips and the disbursement of cash to patrons from a floor bank by the assigned gambling enterprise employee. This might include, for example, how currency and gambling chips are to be counted out and displayed for the surveillance cameras during transactions and count down processes, and how employees are to "clear" their hands at certain points during a transaction. The procedures may also include directions that employees not stand or position themselves in a manner that would block or limit surveillance coverage; such as, not leaning over an open drawer or blocking a camera's view of the counter or surface area where chips and cash are being counted. These procedures could be the same or similar to the procedures that are generally provided to cage cashiers.

This paragraph would also limit the redemption of chips from a floor bank to a maximum amount of \$500, except when the floor bank is being temporarily used as a cage in compliance with the provisions of Section 12386. This paragraph would explicitly prohibit any redemption of chips from a floor bank in a mobile cabinet. These limitations are an important part of protecting assets and limiting the exposure to monetary losses. This is particularly important with respect to floor banks kept in mobile cabinets due to the increased vulnerability created by their mobility.

Subsection (b) requires licensees in all tiers to establish policies and procedures to provide for the security of gambling equipment and confidential documents when kept on the gaming floor. Typically, storage for holding such things as gambling equipment, confidential documents, customer service items, miscellaneous supplies and blank forms is provided on the gaming floor. Some of these items – gambling equipment and confidential documents – need to be secured, protected and properly accounted for. Therefore, it is necessary and appropriate that precautions be taken to safeguard and properly account for the cardroom's assets in order to maintain the integrity of gambling operations and minimize the risk of cheating, as well as to maintain the integrity and confidentiality of patrons' personal and financial information.

1. Subparagraph (A) of paragraph (1) of subsection (b) would require that gambling equipment that is not actively being used be secured in a locked receptacle, drawer or compartment when kept, held or stored in any public area of the gambling establishment. This paragraph would specify that the drawer or compartment shall remain locked, with the key removed, except when being appropriately accessed and that all keys, combinations and access codes shall be subject to the key security and control provisions of Section 12395. This subparagraph does not apply to any gambling equipment that is too large to be placed in a receptacle, drawer or compartment when not in use (e.g., gambling tables and card shuffling machines).
2. Subparagraph (B) of paragraph (1) of subsection (b) provides that confidential documents shall be secured in a locked receptacle, drawer or compartment when being kept, held or stored in any public area of the gambling establishment. This requirement would apply to all confidential documents and information, except when maintained electronically or when in use, in which cases the document or information shall be covered and kept out of public view to the extent reasonably possible.
3. Paragraph (2) of subsection (b) would require the lock or locking mechanism of a receptacle, drawer or compartment containing gambling equipment or confidential documents to be keyed differently from any other receptacle, drawer or compartment in the gambling establishment. However, when a single gambling enterprise employee requires access to multiple receptacles in the performance of his or her duties, that access is exclusive to that employee during his or her shift, and the receptacles all contain either gambling equipment or confidential documents, those receptacles may have a key, combination or access code in common with each other. Managers and supervisors would also be permitted to have a master key for the receptacles used by the employees they supervise.
4. Paragraph (3) of subsection (b) would require that any cabinet containing gambling equipment or confidential document be located so that it is clearly visible for security and surveillance purposes, and that it be kept under continuous recorded video surveillance.
5. Paragraph (4) of subsection (b) would prohibit gambling equipment or confidential documents from being commingled with or kept in the same drawer or compartment as a floor bank, or commingled with or kept in the same drawer or compartment with any personal property or possession of any employee, patron, or any other person.
6. Paragraph (5) of subsection (b) would require the establishment of specific provisions governing the storage, distribution and tracking of gambling equipment kept, held or stored in any public area of the gambling establishment.

Subsection (c) provides that, if a licensee allows access to or the use of any cabinet used or intended to be used for any of the purposes described in subsection (a) or (b), to any TPPPS company, that access and use shall be exclusive to the TPPPS company and its employees, and the cabinet shall not be used by the licensee for any purpose. When a licensee utilizes a cabinet for financial transactions, holding assets, storing confidential documentation or gambling

equipment, and other purposes, the over-arching concerns are segregation of functions and controlled access. This provision addresses those concerns by explicitly prohibiting the sharing of cabinets between a licensee and a TPPPS company.

Subsection (d) would require cardrooms to implement the applicable provisions of this section no later than six months following its effective date. This is intended to provide licensees with adequate notice and sufficient time to develop appropriate policies and procedures in compliance with these newly adopted standards and requirements. Because recent legislation has established a standard quarterly schedule of effective dates for all regulations based on the calendar quarter in which they are filed with the Secretary of State, it is estimated that this could provide licensees a minimum of 7 months, to as much as 10 months, in which to comply.

UNDERLYING DATA:

In addition to the information discussed in the Initial Statement of Reasons, the Commission also considered the following information: None.

REQUIRED DETERMINATIONS:

LOCAL MANDATE:

A mandate is not imposed on local agencies or school districts.

BUSINESS IMPACT:

The Commission has made a determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This determination is based on the following facts or evidence/documents/testimony:

This proposed regulatory action only makes clarifying changes in Section 12386 regarding the operation and functions of cages. None of these changes would impose any additional requirements on licensees or require that licensees do anything differently to comply than what they are required to do currently. In fact, in some instances the proposed changes would provide additional flexibility to licensees in determining the manner in which they will comply. Therefore, it was determined that there would be no cost or other adverse economic impact associated with these changes.

In adding Section 12387 regarding the security of floor banks, gambling equipment and confidential documents, this proposed regulatory action establishes minimum performance standards that are almost entirely consistent with current industry standards and practices. Based on Commission staff's observations in site visits and information provided by licensees and industry representatives at numerous workshops, this regulation was written to provide for the security of floor banks, gambling equipment and confidential documents in ways that are consistent with how licensees currently operate. The only changes that licensees might need to

make would be the possible rekeying of some locks. These costs should amount to no more than a few hundred dollars for the smaller cardrooms to a few thousand dollars for the largest cardrooms. If any other minor adjustments would be required, they would be limited to only a very few individual licensees. For all of the foregoing reasons, it was determined that there would be no significant cost or other adverse economic impact associated with the adoption of Section 12387.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

IMPACT ON JOBS/NEW BUSINESSES:

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

BENEFITS OF PROPOSED REGULATION:

This proposed action clarifies certain provisions of existing regulations affecting the operation and functions of cages and provides licensees more flexibility in determining how to achieve compliance with certain performance standards. The development of internal policies and procedures for the security of floor banks, gambling equipment and confidential documents assists licensees in protecting their assets and the integrity of their gambling operations. This also helps to ensure that the public health, safety and general welfare is protected and that gambling is conducted honestly and competitively. This proposed action helps to ensure consistency and uniformity, and provide greater transparency.

CONSIDERATION OF ALTERNATIVES:

No reasonable alternative to the regulation would be either 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 regulation.

Set forth below are the alternatives that were considered and the reasons each alternative was rejected:

No reasonable alternatives were considered or otherwise identified and brought to the attention of the Commission.

COMMENTS, OBJECTIONS OR RECOMMENDATIONS / RESPONSES:

The following public comments/objections/recommendations were made regarding the proposed action¹ during the public comment periods:

¹ The descriptions of the proposed changes are based on the regulation text originally published October 18, 2013.

45-DAY WRITTEN COMMENT PERIOD

The following written comments/objections/recommendations were received regarding the proposed action during the 45-day comment period that commenced October 18, 2013 and ended December 2, 2013:

A. AMEND SECTION 12360. CHAPTER DEFINITIONS.

In Article 1, Section 12360 provides definitions for numerous terms that govern the construction of Chapter 7. This section incorporates the definitions in Business and Professions Code section 19805 and Section 12002 of Chapter 1 of Division 18. This action would add definitions for several new terms that will be used in Article 3. The proposed amendments to Section 12360 are as follows:

1. A new subsection (d) would be added with a definition for the term “floor bank.” The definition of this term is being added as a convenient means of referring, in general, to an individual imprest fund kept on or near the gambling floor.

Comments/Suggestions:

Mr. Kyle R. Kirkland, Club One Casino and The Deuce Lounge and Casino, in an e-mail received December 2, 2013 (Mr. Kirkland) – The definition of a floor bank in subsection (d) [pg. 2, lines 1-3]² should include clarification of what constitutes a “mobile cabinet,” as referenced in Section 12387.

Response:

This suggestion was considered but was rejected. This subsection simply defines the term “floor bank,” in general, without regard to the receptacles (mobile cabinets) in which a floor bank may be kept. Given the clear meaning of the term “mobile cabinet” in the context in which it is used in Section 12387, no definition is required. From the context in which the term “mobile cabinet” is used in Section 12387, it is clear that it is intended to be synonymous with the term “chip cart,” a commonly used term that is understood throughout the industry. Chip carts are sometimes used by chip runners in a few cardrooms to provide chip sales and exchanges on the gaming floor as a convenient service to players. In some cardrooms – mostly small ones – a mobile cabinet may be used in lieu of stationary cabinets; in others they may be used in combination with stationary cabinets.

Furthermore, based on staff’s research and all of the discussions and workshops that preceded this proposed action, it is clear that there is no confusion amongst affected parties about what is meant by the term “mobile cabinet,” even though it appears that very few cardrooms actually use them.

² All page and line references refer to the regulation text published October 18, 2013, unless otherwise specified.

B. AMEND SECTION 12386. CAGE OPERATION AND FUNCTIONS.

In Article 3, Section 12386 prescribes the MICS that must be addressed in licensees’ policies and procedures relative to the operation and functions of cages. These include standards for cage location, design and construction; security and accountability; staffing and access; activity reconciliation; and, surveillance. The scope and complexity of many of these standards progressively escalate with the higher tiers.

1. Paragraph (1) of subsection (a) would be amended to eliminate language that authorized the cage to be accessible to the public. “Accessible to the public” usually means, or at least implies that customers may enter the room; however, customers are not allowed in the cage and the cage is specifically made secure to keep them out. Language would be added to clarify that the purpose of a cage is to provide for a convenient location in which to conduct patron transactions while maintaining security and accountability for not only funds, but for monetary transactions occurring at the cage and all cage contents. Cage content may include, but is not limited to, the cage bank, cashiers’ banks, and gambling equipment and confidential documents, when kept in a cage. Since gambling equipment and confidential documents are permitted to be, and often are kept in a cage, their protection is just as important as the protection of funds (banks).

Comments/Suggestions:

Mr. Alan Titus, on behalf of Artichoke Joe’s, in a letter dated November 27, 2013 (Mr. Titus) – The construction of the second sentence in paragraph (1) of subsection (a) [pg. 3, lines 8-12], is awkward. Specification of cage content is unnecessary, but if it is included it should be in a separate sentence. This should be rewritten as follows:

“A cage shall be located, designed, constructed and operated to provide convenience for patron transactions while maintaining appropriate security and accountability for all cage contents and for all monetary transactions occurring at the cage.”

Response:

This comment was accepted and the proposed action was modified to accommodate it. The second sentence in paragraph (1) of subsection (a) was amended to read as follows:

“A cage shall be located, designed, constructed and operated to provide convenience for patron transactions while maintaining appropriate security and accountability for all monetary transactions occurring at the cage and for all cage contents.”

2. Paragraph (2) of subsection (a) would be amended to clarify that the names of gambling enterprise employees who work in a cage are not required to be included in the organizational charts of the gambling enterprise. To make this clear, the word “designated” would be changed to “assigned” throughout this paragraph, and the second

sentence would be reworded to indicate that the title, classification or position of cage employees must be listed on the organizational charts.

Comments/Suggestions:

Mr. Titus – The second sentence of this subsection [pg. 3, lines 14-16] should be reworded in the plural.

Response:

This comment was accepted and the proposed action was modified to accommodate it. The second sentence in paragraph (2) of subsection (a) was amended to read as follows:

“The titles, classifications or positions of all employees assigned to process monetary transactions at a cage shall be listed on the gambling enterprise’s organizational chart.”

3. In paragraph (2) of subsection (a), the reference to the duties of cage employees would be changed to provide that those employees’ duties “may include any or all of” the specific duties listed in this paragraph. Subparagraph (A) specifies that those duties may include custody of the cage inventory or custody of an individual cage drawer inventory.

Comments/Suggestions:

Mr. Keith A. Sharp, on behalf of Hawaiian Gardens Casino, in a letter dated December 2, 2013 (Mr. Sharp) – The term “individual cage drawer inventory” in subparagraph (A) [pg. 3, lines 19-21] is not defined. That term should either be defined or changed to “cashier’s bank.”

Response:

This comment was accepted and the proposed action was modified to accommodate it. Subparagraph (A) of paragraph (2) of subsection (a) was amended to read as follows:

“Custody of the cage inventory, or individual cashiers’ banks, which is comprised of currency, coin, patron checks, gambling chips, forms, documents and records consistent with the operation of a cage or an individual cashier’s bank.”

4. Paragraph (5) of subsection (a) would be amended to specify that it is the cage and cashiers’ banks that are to be reconciled, not all cage “activity.” The requirement to summarize all cage transactions would be deleted since reconciliations of recordable transactions are already required. To ensure that reconciliations will continue to be documented in Tier I and Tier II cardrooms, the requirement in paragraph (2) of subsection (b) would be moved to paragraph (5) of subsection (a) as a new subparagraph (B) and the current text of paragraph (5) would become subparagraph (A). Subparagraph (B) would then require cardrooms in all tiers, including Tiers I and II, to document their reconciliation of each cage and cashier’s bank on a cage accountability form including

minimal basic information, as specified. In the relocation of paragraph (2) of subsection (b), the accounting referred to therein would be clarified to apply to the cage and cashiers' banks, and *if applicable*, players' and dealers' banks.

Comments/Suggestions:

Mr. Sharp; Mr. Andrew Schneiderman, Commerce Casino, in a letter dated December 2, 2013 (Mr. Schneiderman); and Mr. David Fried, on behalf of California Grand Casino and Oaks Card Club, in a letter dated December 2, 2013 (Mr. Fried) – Paragraph (5) of subsection (a) [pg. 4, line 17 – page 5, line 7] should be amended so that the amount assigned or issued from the cage to the dealer trays is recorded. Cashiers' and dealers' shifts may not coincide in every gambling establishment so the cage reconciliation and dealer tray reconciliations cannot be done at the same time. Also, balancing the dealer trays would require a cashier or another cage employee to leave the cage to balance the dealer trays on the gaming floor. This is time consuming, disruptive and unnecessary. All that is necessary is to record the amount assigned or issued from the cage to dealer trays. The amount in the trays should then be counted at least once per day or shift and any variance recorded and attached to the cage accountability form rather than recorded in it.

Response:

These comments were accepted, in part, and the proposed action was modified to accommodate them. Subparagraph (B), beginning with clause 3, was amended to read as follows:

“(B) * * * *
* * * *

3. An accounting of the contents of the cage bank, cashiers' banks and, if applicable, players' banks in use during the subject shift, including:

* * * *

4. The amount assigned or issued from the cage to dealers' banks and floor banks in use during the subject shift.

5. The printed name and signature of each assigned cage employee performing the reconciliation, as applicable.”

A dealer's tray is not generally regarded as an imprest bank because there is the commingling of dealer tip amounts in that tray. The only time it really sits at an imprest balance is the moment it is checked in and the moment it is checked out. At every other time it is not an imprest bank, technically. Therefore, the dealer trays cannot be balanced to an imprest amount during a shift.

The cage accountability form is prepared by the incoming and outgoing cage personnel each shift. These personnel are responsible for counting down what is in the cage. There are amounts assigned to dealer trays and floor banks, and those amounts should be included in the cage accountability form. However, cage shifts and the shifts of dealers

and chip runners are not always the same, so cage personnel do not go out on the gaming floor and count down the dealer banks or the floor banks as part of the cage reconciliation. Dealer banks and floor banks are reconciled according to the assigned dealer's or chip runner's shift. For those reasons, it is not possible or practical to include in the cage accountability form an actual count or reconciliation of each dealer bank and floor bank. What the cage accountability form can and should show is what has been assigned to those banks. For purposes of the end-of-shift cage accountability reconciliation, the amounts issued for dealer trays and floor banks should be sufficient, and would be consistent with the provisions of paragraph (2) of subsection (c).

After considering the suggestion to create an entirely new requirement or process of counting dealer trays and recording variances, it was rejected. It appears that this suggestion would require a substantive change that was not contemplated in this proposed action as noticed. As such, the suggested change is not sufficiently related to the originally published text, as provided in subdivision (c) of section 11346.8 of the Government Code, and is not an appropriate subject to include in a 15-day change proposal.

5. Paragraph (1) of subsection (b) would be deleted and paragraph (2) would be moved to subsection (a), as discussed in number 4 above, leaving only paragraph (3) which would then become subsection (b). Subsection (b) would be amended to require that cardrooms in Tiers III through V have the reconciliations specified in paragraph (5) of subsection (a) posted to the general ledger by someone other than an assigned cage employee or cage supervisor.

Comments/Suggestions:

Mr. Fried – The requirement of subsection (b) [pg. 5, line 19 – page 6, line 11] to have an employee other than a cage employee or cage supervisor post cage reconciliations for Tiers III through V licensees should apply only to Tiers IV and V. In a Tier III cardroom, often the bookkeeper posts information to the general ledger and also supervises the cage in the sense that the bookkeeper reviews cage activity and employees, but does not actually process transactions in the cage. This requirement could be moved to subsection (c), or it should be reworded as follows:

“In addition to the requirements of subsection (a), the policies and procedures for Tiers III through and including V shall require that the cage and cashiers' banks reconciliations specified in paragraph (5) of subsection (a) be posted and reconciled to the general ledger by someone other than an assigned cage employee a or cage supervisor whose primary duty is supervision of the cage.”

Response:

This suggestion was considered but was rejected. This separation of duties is intended to assist in preserving the integrity of the reconciliation. It was originally made applicable

to Tiers III through V because the cardrooms in the two lower tiers are so small that they will rarely have the additional employees necessary to comply with this requirement. This is an existing requirement that has been in effect since April of 2010 and, to date, the Commission has not received any information to suggest that any Tier III or higher cardroom has had a problem with compliance.

Furthermore, adding the suggested qualification at the end of the sentence seems redundant in that a cage supervisor’s primary duty would be the supervision of the cage. Adding this qualification is unnecessary and might make this provision confusing and less clear.

6. Paragraph (2) of subsection (c) would be amended to clarify that these provisions apply to all banks, and the reference to beginning and ending balances would be deleted as unnecessary. Subparagraph (C) would also be amended to clarify that the “amount,” rather than the “source,” of other items of monetary value is to be itemized. Reference to “dealers’ banks” and “chip runners’ banks” would be removed from the examples of other items of monetary value. Subparagraph (D) would be added to address the dealers’ banks and floor (chip runners’) banks by specifically requiring an itemization of the amount assigned to each of those banks.

Comments/Suggestions:

Mr. Sharp – Use of the term “all banks” in paragraph (2) of subsection (c) [page 6, lines 23-26] is confusing. Are there banks other than cage bank, cashier bank, floor bank, player’s bank or dealer bank? If so, they should be identified. If not, the words “identified in paragraph (5) of subsection (a)” should be added after “for all banks.”

Response:

This comment was accepted and the proposed action was modified to accommodate it. The phrase “for all banks” was deleted, as it is unnecessary. This paragraph already makes reference to the same cage accountability form and reconciliation addressed in paragraph (5) of subsection (a), and that paragraph does identify the relevant banks. In addition, paragraph (2) of subsection (c), in its subparagraphs, already identifies the same relevant banks. Because paragraph (5) of subsection (a) and paragraph (2) of subsection (c) specifically refer to the same banks, further specificity or clarification is unnecessary and the phrase “for all banks” has been deleted.

C. ADOPT SECTION 12387. SECURITY AND USE OF FLOOR BANKS; SECURITY OF GAMBLING EQUIPMENT AND CONFIDENTIAL DOCUMENTS.

This proposed action would also establish a new Section 12387 in Article 3, which would require cardrooms of all tiers to adopt specified minimum policies and procedures regarding the security and use of floor banks, and the security of gambling equipment and confidential documents, on the gambling floor.

Subsection (a) requires licensees in all tiers to establish policies and procedures to provide for the security of floor banks. Floor banks are generally used throughout the industry to provide certain gambling enterprise employees convenient access to chips and funds on the gaming floor in order to provide services to patrons that would otherwise have to be conducted at a cage.

1. Paragraph (3) of subsection (a) would require that any cabinet used or intended to be used to contain a floor bank, be located so that it is clearly visible for security and surveillance purposes, and that it be kept under continuous recorded video surveillance with camera coverage that shall be adequate for monitoring and recording the contents of any drawer when open, to the extent reasonably possible, and all activities involving the floor bank. This paragraph would also allow the use of a mobile cabinet and would require that it be kept at a fixed secure location under continuous recorded video surveillance when not being actively used on the gambling floor.

Comments/Suggestions:

Mr. Nathan DaValle, Assistant Bureau Chief, Bureau of Gambling Control, in a letter dated November 27, 2013 – Bureau compliance staff should be provided the opportunity to review and approve the sufficiency and clarity of surveillance recordings of cabinets used to contain a floor bank. The Bureau suggests that (the third sentence of) paragraph (3) of subsection (a) [page 8, lines 14-16] should be amended to read as follows:

“The Bureau approved camera coverage shall be adequate to enable monitoring and recording of the contents of any drawer when open, to the extent reasonably possible, and of all activities involving the floor bank.”

Response:

This comment and suggestion was considered, but was rejected. The addition of the phrase “bureau approved” in paragraph (3) of subsection (a) is unnecessary. This paragraph already incorporates the applicable provisions of Section 12396 which addresses specific surveillance requirements. The activities relative to the use and storage of floor banks would certainly be considered “critical activities related to ... gambling operations” within the meaning of paragraph (1) of subsection (a) of Section 12396. The requirements being proposed here in paragraph (3) of subsection (a) add further specificity to the existing requirements of Section 12396.

Moreover, the Bureau is already given the authority to review and approve a licensee’s surveillance operations. Section 12372 provides that a licensee’s security and surveillance plan must implement all applicable provisions of Article 3 of Chapter 7, which includes Sections 12387 and 12396. Section 12372 also gives the Bureau the authority to review and approve licensees’ security and surveillance plans. Adding the phrase “Bureau approved” in the third sentence of paragraph (3) of subsection (a) of Section 12387 would not provide any greater review and approval authority than currently exists.

2. Paragraph (6) of subsection (a) would require the licensee to establish the maximum imprest amount that may be assigned to the each floor bank and would limit the imprest amount that may be assigned to a floor bank in a mobile cabinet to \$20,000.

Comments/Suggestions:

Mr. Sharp and Mr. Kirkland – Capping the amount that may be assigned to a floor bank in a mobile cabinet at \$20,000 [page 9, lines 1-2] is unnecessary, arbitrary, and too low. It is an enforcement issue as to whether a licensee can justify an amount, whether greater or less than \$20,000, as being the amount reasonably necessary for the activities associated with the bank during any shift. The Commission should eliminate any maximum cap on the imprest amount that may be assigned to a floor bank in a mobile cabinet or, in the alternative, increase the amount to at least \$30,000, or establish tiered maximums.

Response:

These comments were accepted, in part, and the proposed action was modified to accommodate them. The limit on the imprest amount that may be assigned to a floor bank in a mobile cabinet was increased to \$30,000. This is an integral element in any system of internal controls. Retail businesses commonly set limitations on the amount of cash that may be kept in cash drawers or cash registers. Banks limit the amount of cash held in tellers' drawers. It is an important part of protecting assets and limiting the exposure to monetary losses. This is particularly important with respect to floor banks kept in mobile cabinets due to the increased vulnerability created by their mobility.

This limit does not apply to floor banks held in stationary cabinets. This provision would not interfere with the licensee's discretion in establishing those amounts. Licensees are also free to adjust the amounts assigned to various floor banks as business needs dictate.

3. Paragraph (7) of subsection (a) would require the licensee to adopt policies and procedures for the establishment of specific provisions governing the sale or distribution of gambling chips and the disbursement of cash to patrons from a floor bank by the assigned gambling enterprise employee.

This paragraph would also limit the redemption of chips from a floor bank to a maximum amount of \$500, except when the floor bank is being temporarily used as a cage in compliance with the provisions of Section 12386. This paragraph would explicitly prohibit any redemption of chips from a floor bank that is kept in a mobile cabinet.

Comments/Suggestions:

Mr. Kirkland – Limiting the maximum redemption of chips from a floor bank [page 9, lines 5-7] to \$500 seems low. I would suggest increasing the amount to \$2,500. Presumably, there would be no limit on the amount of chips which can be sold from a floor bank.

Response:

This comment was considered, but the suggestion was rejected. Based on comments throughout the various workshops and discussions concerning this regulation, as well as staff's observations in actual visits to cardrooms, it has been determined that the majority of cardrooms do not permit the redemption of chips from a floor bank in any amount. The few cardrooms that do allow redemptions from floor banks try to discourage the practice, but limit the amount of any redemption to \$500. As has been stated consistently in the workshops and discussions, floor banks are used as a convenience to chip runners in providing some limited service to patrons at the gaming tables on the gaming floor. Floor banks are not intended to be used as a cage or cashier's bank, nor should they be. The cabinets in which floor banks are kept on the gaming floor are neither designed nor intended to be operated as a cage. This provision is intended to ensure the security of funds and protect the integrity of the cardroom's assets.

Subsection (b) requires licensees in all tiers to establish policies and procedures to provide for the security of gambling equipment and confidential documents when kept on the gaming floor.

1. Subparagraph (A) of paragraph (1) of subsection (b) would require that gambling equipment be secured in a locked receptacle, drawer or compartment when being kept, held or stored in any public area of the gambling establishment. Any gambling equipment that is too large to be placed in a receptacle, drawer or compartment when not in use, or that is normally left on a gambling table when not in use, would be required to be secured with a locking mechanism (e.g., a cable lock) to prevent it from being moved or tampered with.

Comments/Suggestions:

Mr. Sharp – As used in subparagraph (A) of paragraph (1) of subsection (b) [page 9, line 11], what is the definition of the term “public area?” Is a “card desk” on a gambling floor that is only accessible by gambling establishment personnel in a “public area,” thereby necessitating that all gambling equipment therein be secured at all times?

Response:

This comment was considered, but does not require any change in the proposed regulation. The gambling floor is clearly a “public area” of a cardroom since patrons are generally allowed unrestricted access to that area. Therefore, any furnishing or fixture located on the gaming floor would be in a public area. For example, a cabinet located on the gambling floor, whether it holds a floor bank, gambling equipment, confidential documents, or just cleaning supplies, is still in a public area. Assuming that a “card desk” is used to store playing cards on the gaming floor, those playing cards would be subject to the provisions of this regulation. It is what is kept in a drawer or compartment that determines whether that drawer or compartment must be locked.

Comments/Suggestions:

Mr. Schneiderman, Mr. Fried, Mr. Sharp and Mr. Kirkland – The requirement in subparagraph (A) of paragraph (1) of subsection (b) [page 9, lines 13-16] of locking shufflers to tables when not in use seems unnecessary. The existing regulations call for tables to be under continuous surveillance providing a good degree of security against tampering. Shufflers are routinely swapped from one table to another if one fails or there is a game change. Locking them to the tables will result in interruptions to continuous gaming and the customer experience. Overall, moving a shuffler is no small task; the notion that staff or patrons would swap one out without notice is highly unlikely given the size, weight and bulk of current equipment. It is suggested that the regulation be amended to exclude shufflers from the gambling equipment that must be secured with a locking mechanism.

The shufflers used in California cardrooms all weigh between 17 and 29 pounds, depending on the make and model. These are heavy, bulky, awkward devices that are not easily carried away. It is suggested that the regulation require that a shuffler, if used for games other than poker, be locked to the table only if it weighs less than five pounds.

There hasn't been a single instance in this country in which a shuffle machine has been impermissibly removed from a table, compromised and then introduced back into a game. There has been only one known or reported incident similar to this and it occurred in Macau in 2012. There is no issue that requires regulatory action and the Commission is urged to except shuffle machines from this requirement. To do otherwise will place an undue burden on licensees which, on balance, is not justified by any necessary regulatory purpose.

Response:

These comments were accepted and the proposed action was modified to accommodate them. Subparagraph (A) of paragraph (2) of subsection (a) was modified to read as follows:

“(1)(A) When kept, held or stored in any public area of the gambling establishment, gambling equipment not actively being used shall be secured in a receptacle, drawer or compartment, with a locking mechanism securing the contents. The locking mechanism shall remain locked at all times, except when being accessed by an authorized gambling enterprise employee in the performance of his or her duties. If a keyed lock or locking mechanism is used, the key shall not be left in the lock when the receptacle is not being accessed. All keys, combinations and access codes shall be subject to the applicable key security and control provisions of Section 12395. This subparagraph shall not apply to any gambling equipment that cannot be secured in a receptacle, drawer or compartment when not in use due to its size.”

2. Subparagraph (B) of paragraph (1) of subsection (b) would require that confidential documents be secured in a locked receptacle, drawer or compartment when being kept, held or stored in any public area of the gambling establishment. This requirement would apply to all confidential documents and information, except when maintained electronically or when in use, in which cases the document or information shall be covered and kept out of public view to the extent reasonably possible.

Comments/Suggestions:

Mr. Kirkland – Requiring, in Subparagraph (B) of paragraph (1) of subsection (b) [page 9, lines 24-26], that confidential documents be locked may limit the review and use of important documents. Confidential documents should be kept in a controlled area, under continuous surveillance and out of public view. They should be locked when and if the area is no longer monitored by area staff or surveillance.

Response:

This comment was considered, but was rejected. As drafted, the regulation makes clear that the requirement to secure confidential documents in a locked receptacle does not apply to any document that is being used or that is maintained electronically. When being used or when maintained electronically, confidential documents are required to be kept out of public view, to the extent reasonably possible. No change is necessary as the proposed regulation already provides essentially what is suggested in this comment.

Subsection (c) provides that, if a licensee allows access to or the use of any cabinet used or intended to be used for any of the purposes described in subsection (a) or (b), to any TPPPS company, that access and use shall be exclusive to the TPPPS company and its employees, and the cabinet shall not be used by the licensee for any purpose.

Comments/Suggestions:

Mr. Kirkland – Subsection (c) [page 9, lines 13-16] should be amended to allow Tiers I and II cardrooms and their TPPPS providers to use separate locked drawers within the same cabinet. At one of our cardrooms we share a podium with our TPPPS provider; they have separate drawers and keys. Neither one of us needs our own separate cabinet given the modest transaction volume and limited space. Requiring separate cabinets would result in unnecessary use of floor space.

Response:

This comment was considered, but was rejected. The concern with sharing a cabinet, even when access to separate drawers or compartments is segregated, is that TPPPS personnel should not have an opportunity to access the cardroom's funds, equipment or confidential documents. According to the Bureau, this has caused many complications in conducting investigations when too many people are congregating in the same location. The concerns about TPPPS employees having access to or sharing cabinets are similar to allowing them to share or have access to the cardroom cage. If these cabinets were simply used to house blank forms, miscellaneous office supplies, or the like, the concept

of sharing cabinets would not be an issue. However, when a licensee utilizes a podium for financial transactions, holding assets, storing confidential documentation or gambling equipment, and other purposes, the over-arching concern is that of segregation of functions and controlled access.

According to information provided by the Bureau during the discussions and workshops that preceded this proposed action, there are approximately 21 Tier I and II cardrooms in Northern California with approved TPPPS contracts. Of those 21, only two share a cabinet, on the gaming floor, with the TPPPS company. Of those two cardrooms, only one keeps chips inside separately keyed drawers within the same cabinet. The other maintains all chips and confidential documents inside its cage. Based on this information, the issue of having separate cabinets for the cardroom and the TPPPS company does not appear to be a significant issue for the smaller tiers, where space limitations would be of most concern.

There were no further comments, objections or recommendations received regarding the proposed action within the initial 45-day public comment period.

JANUARY 29, 2014 REGULATIONS HEARING

The following comments/objections/recommendations were received regarding the proposed action during the public hearing held January 29, 2014:

There were no comments received, either in writing or orally, at the January 29, 2014 hearing.

15-Day Change Written Comment Period

The following written comments/objections/recommendations were received regarding modifications to the proposed action during the 15-day written comment period that commenced February 11, 2014 and ended February 26, 2014:

There were no comments received within the 15-day change written comment period regarding the modifications to the proposed action.

COMMENTS RECEIVED OUTSIDE THE PUBLIC COMMENT PERIODS

The comments listed below were not received during any of the abovementioned public comment periods. While they are included in the rulemaking file, they have not been summarized or responded to, and were not considered in the adoption of the proposed action.

1. Letter dated January 16, 2014 from David M. Fried
2. Letter dated January 27, 2014 from Mark Kelegian

There were no further public comments, objections or recommendations received regarding the proposed action either within or outside any of the public comment periods.