

California Gambling Control Commission

DESCRIPTION OF PROPOSED REGULATORY ACTION

SURVEILLANCE

INTRODUCTION:

The California Gambling Control Commission (Commission) is proposing to amend Minimum Internal Control Standards (MICS) regulations concerning surveillance requirements for gambling establishments. The proposed amendments add Tier IV type gambling establishments to the requirements previously reserved only for Tier V. Specifically, these proposed regulations would require a Tier IV cardroom business licensee to have a separate surveillance unit and provide dedicated cameras for all gaming tables. The amendments also make necessary updates to requirements concerning the quality and format of video recordings consistent with modern-day digital surveillance technologies. Upon adoption and approval, these regulations would have a delayed effective date of 12 months from the date of filing with the Secretary of State to provide cardroom business licensees enough time to upgrade their existing surveillance systems.

EXISTING LAW AND REGULATION:

Gambling Control Act

Business and Professions (B&P) Code section 19801, subdivision (d), states that unregulated gambling enterprises are inimical to the public health, safety, welfare, and good order. Accordingly, no person in this state has a right to operate a gambling enterprise except as may be expressly permitted by the laws of this state and by the ordinances of local governmental bodies.

B&P Code section 19801, subdivision (g), states public trust that permissible gambling will not endanger public health, safety, or welfare requires that comprehensive measures be enacted to ensure that gambling is free from criminal and corruptive elements, that it is conducted honestly and competitively, and that it is conducted in suitable locations.

B&P Code section 19801, subdivision (h), states that public trust and confidence can only be maintained by strict and comprehensive regulation of all persons, locations, practices, associations, and activities related to the operation of lawful gambling establishments.

B&P Code section 19801, subdivision (i), states that all gambling operations, all persons having a significant involvement in gambling operations, and all establishments where gambling is conducted must be licensed and regulated to protect the public health, safety, and general welfare of the residents of this state as an exercise of the police powers of the state.

B&P Code section 19801, subdivision (n), states that records and reports of cash and credit transactions involving gambling establishments may have a high degree of usefulness in criminal and regulatory investigations and, therefore, licensed gambling operators may be required to keep records and make reports concerning significant cash and credit transactions.

DRAFT

DESCRIPTION OF PROPOSED REGULATORY ACTION SURVEILLANCE

B&P Code section 19826 provides that the Department of Justice, Bureau of Gambling Control (Bureau) shall perform all investigatory functions required by the Gambling Control Act (Act)¹.

B&P Code section 19826, subdivision (b), specifies the Bureau shall be responsible for monitoring the conduct of all licensees and other persons having a material involvement, directly or indirectly, with a gambling operation or its holding company, for the purpose of ensuring that licenses are not issued or held by, and that there is no direct or indirect material involvement with, a gambling operation or holding company by ineligible, unqualified, disqualified, or unsuitable persons, or persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.

B&P Code section 19827 states the Bureau has all powers necessary and proper to enable it to carry out fully and effectually the duties and responsibilities of the Bureau specified in the Act.

B&P Code section 19827, subdivision (a)(1)(D), authorizes the Bureau to summarily seize, remove, and impound any equipment, supplies, documents, or records from any licensed premises for the purpose of examination and inspection. However, upon reasonable demand by the licensee or the licensee's authorized representative, a copy of all documents and records seized shall be made and left on the premises.

The search and seizure of surveillance video recordings without warrant is necessary for the Bureau to carry out its investigation and law enforcement responsibilities and is authorized by B&P Code section 19827(a)(1)(D).

B&P Code section 19840 provides the Commission may adopt regulations for the administration and enforcement of the Act. To the extent appropriate, regulations of the Commission and the Bureau shall take into consideration the operational differences of large and small establishments.

B&P Code section 19841, subdivision (o), allows the Commission to adopt regulations that restrict, limit, or otherwise regulate any activity that is related to the conduct of controlled gambling.

B&P Code section 19920 provides that it is the policy of the State of California to require that all establishments wherein controlled gambling is conducted in this state be operated in a manner suitable to protect the public health, safety, and general welfare of the residents of the state. Responsibility for the employment and maintenance of suitable methods of operation rests with the owner licensee, and willful or persistent use or toleration of methods of operation deemed unsuitable by the Commission or by local government shall constitute grounds for license revocation or other disciplinary action.

B&P Code section 19922 provides that no owner licensee shall operate a gambling enterprise in violation of any provision of the Act or any regulation adopted pursuant to the Act.

¹ B&P Code section 19800, et seq.

DRAFT

DESCRIPTION OF PROPOSED REGULATORY ACTION SURVEILLANCE

B&P Code section 19924 provides that each owner licensee shall maintain security controls over the gambling premises and all operations therein related to gambling, and those security controls are subject to the approval of the Commission.

California Code of Regulations (CCR), Title 4, Division 18

Section 12380(d) provides that for the purposes of Article 3:

- “Tier I licensee” means a cardroom business licensee authorized to operate one to five tables.
- “Tier II licensee” means a cardroom business licensee authorized to operate six to ten tables.
- “Tier III licensee” means a cardroom business licensee authorized to operate eleven to thirty tables.
- “Tier IV licensee” means a cardroom business licensee authorized to operate thirty-one to sixty tables.
- “Tier V licensee” means a cardroom business licensee authorized to operate sixty-one or more tables.
- Absent specific reference to a particular tier, any requirement of any regulation in this article will be deemed to be applicable to all cardroom business licensees.

Section 12384(c)² requires cardroom business licensees in Tier IV and V have policies and procedures which designate a cardroom category licensee to video monitor the entire drop box collection process through continuously recorded video surveillance.

Section 12395(a) requires the policies and procedures for cardroom business licensees in all tiers meet or exceed the following (among others):

- Access to restricted areas of the gambling establishment, including but not limited to cages, count rooms, vaults, security offices, and surveillance rooms, must be limited to authorized personnel in the performance of their duties and must be closely controlled.
- For the purpose of video surveillance recordings, gambling establishments must provide adequate lighting of all public areas, entrances and exits, and for all adjoining parking areas owned, operated or otherwise controlled by the cardroom business licensee for use by its patrons.

Section 12395(c) requires the policies and procedures for cardroom business licensees in Tiers IV and V meet or exceed the following standards for security:

- Cardroom business licensees must install and maintain a backup generator that is sufficient, during power outages, to provide for the operation of lighting systems, information systems, and surveillance and recording systems for a time necessary to protect the safety and security of patrons and employees, patrons' property, and the cardroom business licensee's assets and property while gambling operations are terminated and patrons exit the premises.

² Unless otherwise noted, the identified section of a regulation is within CCR, Title 4, Division 18.

DRAFT

DESCRIPTION OF PROPOSED REGULATORY ACTION SURVEILLANCE

- Any gambling establishment that elects to continue gambling operations during a power outage must install and maintain a backup generator that is sufficient to provide for the full and continued operation of all lighting systems, all information systems, and all surveillance and recording systems.

PROBLEMS ADDRESSED:

Currently, the separation of surveillance duties and required monitoring of gambling operations during all hours of operation is only required for Tier V cardroom business licensees (authorized to operate 61 tables or more). Absent these requirements, Tier IV cardroom business licensees do not possess the same foundation for strong internal controls. Further, unattended surveillance systems can only provide evidence after a crime or suspicious event takes place. Since Section 12396, became operative in 2010, the use of digital surveillance systems has become more economically feasible and an essential means for recording, storing, and copying video footage with sufficient, high-resolution clarity. This technology, which is now the industry norm, has made it necessary for the Commission to be climate-conscious and update its existing surveillance requirements to align with modern-day digital technologies. As previously stated, upon adoption and approval these regulations would have a delayed effective date of 12 months after filing with the Secretary of State. This is to provide cardroom business licensees enough time to upgrade their surveillance systems to comply with the regulations.

ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS:

The proposed amendments add Tier IV cardroom business licensees to the requirements previously reserved only for Tier V cardroom business licensees; namely requiring a separate surveillance unit to be staffed during all hours while gambling operations are taking place and providing dedicated cameras for all gaming tables. Doing so will strengthen internal controls for Tier IV cardroom business licensees and provide an extra layer of safety and security. Adding Tier IV cardroom business licensees (authorized to operate 31 to 60 tables) to the more stringent surveillance requirements previously reserved for Tier V will make California's standards similar to those of Nevada. For all license tiers, requiring media recordings be captured, recorded, and stored digitally with sufficient clarity will better assist the Bureau in conducting investigations. This proposed action will benefit each cardroom business licensee in further safeguarding their assets, protecting patrons and their property, and maintaining the integrity of games and gaming. The proposal will also increase public trust in gaming throughout California.

CONSISTENCY WITH EXTERNAL GAMBLING REGULATIONS:

Nevada Gaming Regulations – Surveillance Standards for Non-Restricted Licensees

The Nevada Gaming Commission's surveillance standards for non-restricted licenses (NVGC Regulation 5) specify the following categories based on annual gross revenue during the preceding calendar year:

- Category A - \$40 million or more
- Category B - \$15 million or more but less than \$40 million
- Category C - \$3 million or more but less than \$15 million

DRAFT

DESCRIPTION OF PROPOSED REGULATORY ACTION SURVEILLANCE

- Category D - less than \$3 million

Surveillance equipment standards require that for all category “A” and “B” licensees:

- The surveillance system must be maintained and operated from a surveillance room, which is defined as a secure location(s) in a licensed gaming establishment used primarily for casino surveillance.
- The entrance to the surveillance room or secured location must be located so that it is not readily accessible by either casino employees who work primarily on the casino floor or the general public.
- Access to a surveillance room must be limited to surveillance personnel, key employees, and other personnel authorized in accordance with the licensee’s policy as set forth in its written surveillance system plan. Immediately upon request and presentation of proper identification presented to any authorized person, any agent of the board must be provided access.
- The surveillance room must be attended at all times by personnel trained in the use of the equipment, knowledge of the games, and house rules. When necessary, surveillance rooms may be unattended for periods of time not to exceed one hour in any eight hour period to allow appropriate meal and rest breaks.
- Reasonable effort must be made to repair each malfunction of surveillance system equipment required by these standards within 72 hours after the malfunction is discovered.

Required surveillance coverage:

- The surveillance system of all licensees operating three or more table games must possess the capability to monitor and record:
 - Each table game area, with sufficient clarity to identify patrons and dealers; and,
 - Each table game surface, with sufficient coverage and clarity to simultaneously view the table bank and determine the configuration of wagers, card values, and game outcome.

Surveillance records requirements:

- Each licensee must maintain a log that documents each malfunction and surveillance system repair. The log must state:
 - The time, date, and nature of each malfunction;
 - The efforts expended to repair the malfunction and the date of each effort;
 - The reasons for any delays in repairing the malfunction; and,
 - The date the malfunction is repaired and, where applicable, any alternative security measures that were taken.

Digital video recording (DVR) standards:

- All DVR equipment and systems used by a licensee in their surveillance system to comply with the Surveillance Standards requirements, must:
 - Be capable of recording in real time.

DRAFT

DESCRIPTION OF PROPOSED REGULATORY ACTION SURVEILLANCE

- Have visual resolution of sufficient clarity to meet all published surveillance standards (identifying patrons, dealers, other employees, wagers, game outcomes, etc.).

Mississippi Gaming Regulations – Access to Monitor Rooms

Mississippi Gaming Regulation Rule 6.2 (Title 13, Part 3, Chapter 6) requires access to monitor rooms (surveillance rooms) be limited to only those personnel who are employed exclusively for surveillance purposes.

Louisiana Gaming Regulations – Surveillance Personnel Employment Provisions

Louisiana Gaming Regulation Section 3304A (Title 42, Part III, Chapter 33) requires surveillance department employees to be independent of all other departments and must report directly to the general manager or higher corporate official. Further, Section 3304B provides licensee or casino operator employees assigned to monitoring duties in the surveillance room are prohibited from being concurrently employed in any other capacity by the licensee or casino operator or any licensee or casino operator affiliate.

Washington State Gambling Regulations – Internal Control Requirements

Washington State Gambling Commission Regulations (WAC 230-15-430) require licensees to establish separate departments or functions that must be independent from each other. At a minimum, these departments or functions must include:

- (a) Surveillance;
- (b) Security;
- (c) Gambling; and,
- (d) Accounting.

New Jersey State Gaming – Internal Control Regulations

New Jersey Gaming Operation Regulations (§ 13:69D-1.10) require each casino licensee to install in its establishment a CCTV system that must be under the surveillance department's exclusive control. Further, the regulations require that surveillance department employees assigned to monitor the activities must be independent of all other departments.

PROPOSED ACTION:

This proposed action will make changes within CCR, Title 4, Division 18, as follows:

CHAPTER 7. CONDITIONS OF OPERATION FOR GAMBLING ESTABLISHMENTS.

ARTICLE 3. MINIMUM INTERNAL CONTROL STANDARDS (MICS) FOR CARDROOM BUSINESS LICENSEES.

Section 12396

In general, this section requires cardroom business licensees to adopt specified policies and procedures concerning surveillance. The requirements increase based on the relative size of a gambling establishment, which is determined by the number of tables a licensee is licensed to operate:

DRAFT

DESCRIPTION OF PROPOSED REGULATORY ACTION SURVEILLANCE

- Tier I licensee – a cardroom business licensee authorized to operate one to five tables.
- Tier II licensee – a cardroom business licensee authorized to operate six to ten tables.
- Tier III licensee – a cardroom business licensee authorized to operate eleven to thirty tables.
- Tier IV licensee – a cardroom business licensee authorized to operate thirty-one to sixty tables.
- Tier V licensee – a cardroom business licensee authorized to operate sixty-one or more tables.

Section 12396(a)(1) is proposed to be amended to add card values, wagers, and game outcomes to the list of things that must be recorded with reasonable coverage and clarity by a gambling operation’s surveillance system; applicable to all license tiers. The additional specificity is necessary to further protect gambling operation integrity conducted in all gambling establishments and provides an additional deterrent against illegal activity. Further, requiring the additional surveillance coverage strengthens the Bureau’s ability to investigate alleged illegal activities that occur at gaming tables.

Section 12396(a)(2) is proposed for amendment to remove the exemption that currently allows the gambling establishment entrances, exits, and parking areas to be recorded in time lapse mode at a minimum of 15 frames per second. Respectively, enhanced recording requirements for these areas have been added and are discussed in greater detail later in this document.

Section 12396(a)(4)

OPTION 1 – GPAC Text: proposes to add, “or replace” to the provision. Currently, the regulations only contemplate the repair of malfunctioning surveillance equipment within 72 hours of discovering a malfunction; however, in some instances replacing such equipment is a better and less burdensome alternative than making attempts to repair it. In other instances, repairing the equipment may not be an option at all. Adding the replacement of malfunctioning surveillance equipment as an option provides a commonsense change to the provision and is necessary to clarify that the licensee may have equipment replaced in lieu of repair.

OPTION 2 – Staff Recommended Text: proposes to add, “or replace” to the provision for the reasons stated in Option 1. Additionally, this option proposes to add language that specifies if the surveillance system ceases to be able to record any area of the gambling establishment that is required by this Article to be under recorded surveillance, then that area must be closed until the malfunction is repaired. This language is necessary to add clarity and brevity to the regulations and ensure that operations do not continue in areas where recorded surveillance is required but not possible.

Section 12396(a)(5) is proposed to be amended to allow a network video recorder (NVR) or equivalent system to be utilized. Currently, this section is unnecessarily limited to the usage of DVRs only. However, both DVRs and NVRs perform the same recording video footage function. The differences are in how the systems record the footage. DVRs take video directly from the cameras over coaxial cable and then process it for recording. NVRs are similar but they do not process video and instead catalog and store video that Internet Protocol (IP) cameras

DRAFT

DESCRIPTION OF PROPOSED REGULATORY ACTION SURVEILLANCE

stream to the NVR. In more technical terms, a DVR encodes and stores video signals, while an NVR stores video that a camera encodes. NVR systems rely on newer, more advanced technology and offer higher image/video quality (among other benefits) than compared to a DVR at the same resolution. Adding NVRs or equivalent systems to the regulations is necessary to provide licensees the option to make additional technological improvements to their surveillance systems. Such improvements, if made, would also better assist the Bureau in conducting investigations. Additionally, paragraph (a)(5) includes other non-substantive amendments that are technical in nature.

Section 12396(a)(5)(C) is proposed to be expanded to allow portable digital storage devices to be used in addition to digital video discs (DVDs) when reproducing or copying surveillance data stored on a media storage system. Since the regulations came into effect, digital storage devices have become a superior, more reliable and affordable option to analog storage systems [e.g., Video Home System (VHS) tapes] and DVDs, which are more prone to degradation and damage over time. Digital storage devices are now extremely portable and have the capability of storing more data than a single DVD or VHS with a smaller footprint. They also provide a more efficient and faster means of copying and storing data and are not susceptible to scratches that can easily occur on DVDs, which can corrupt and make data inaccessible. Adding portable digital storage devices to the provision is necessary to take into account technological advancements that have improved upon how information can be accessed, copied, and stored.

Section 12396(a)(7) contains non-substantive changes concerning the minimum timeframe recordings must be retained (unless otherwise requested by the Bureau) which increased on June 1, 2013 from 7 to 14 days. Now that the implementation date has passed, the requirement should be appropriately codified along with the repeal of the sunrise clause in subparagraph (B).

Section 12396(a)(8) is proposed to be divided into two parts (A and B), which provides for better readability. A non-substantive change to capitalize the word “chief” in subparagraph (A) is proposed as the term is defined in Chapter 1. Further, two clauses are proposed to be added to subparagraph (B). The first clause (i), would extend the clarity and quality standards required of originals to digital copies. The second clause (ii), requires the licensee to provide the Bureau with any software that may be necessary to view the digital copies. The additional requirements address Bureau agent comments made during at the April 2016 Gaming Policy Advisory Committee (GPAC) meeting. The Bureau agents indicated that their concerns were in the ability to download and view video recordings and the clarity and quality of the recordings. They went on to state that the Bureau has difficulty viewing approximately 50 percent of the surveillance recordings and discussed the importance of having different camera angles, especially for viewing the cage.

Section 12396(b)(1) includes proposed language that would require the surveillance system of a Tier II through V cardroom business licensee to have dedicated cameras for monitoring and recording the the gambling establishment entrances and exits. Additionally, the cameras must have sufficient clarity to afford reasonable opportunity to identify persons entering and exiting. The existing prescriptive requirement, which specifies the “interior and exterior” of the entrances and exits must be recorded, is proposed to be modified to a more performance based standard.

DRAFT

DESCRIPTION OF PROPOSED REGULATORY ACTION SURVEILLANCE

The proposed change is based on comments provided by GPAC members to provide a more practical requirement that still achieves the goal of affording the viewer a reasonable opportunity to identify persons entering and exiting. The amendments are necessary to ensure the surveillance systems for Tiers II through V cardroom business licensees include additional safeguards, which are sufficient and appropriate for establishments with more than five tables as these larger operations have greater potential for criminal activities to take place.

Section 12396(c) is proposed for amendment to add a “sufficient clarity” standard for the requirement for the system to provide opportunity to obtain a description of vehicles entering and exiting all adjoining parking areas designated for patrons, which are owned, operated, or otherwise controlled by a Tier III through V cardroom business licensee. Notably, existing Section 12395(a)(2), already requires all gambling establishments provide adequate lighting of all public areas, including adjoining parking areas. The additional and more specific requirements address Bureau agent comments from the April 2016 GPAC meeting concerning poor quality surveillance footage copies. The proposed change is necessary to strengthen the Bureau’s ability to conduct investigations.

Section 12396(d) is proposed to be repealed. The existing subsection (d) language requires Tier IV cardroom business licensees to include in its policies and procedures a requirement that a cardroom owner type licensee or key employee licensee who has the ability to access live video surveillance cameras and previous recordings be on duty during all hours of operation. The amendment proposed to previous subsection (e), now subsection (d), adds Tier IV cardroom business licensees to the surveillance requirements previously reserved only for Tier V. As such, the requirement in existing subsection (d) is no longer necessary.

Section 12396(e), amended to subsection (d), contains three significant proposed changes concerning new requirements for Tier IV cardroom business licensee. The first of which would require Tier IV cardroom business licensees to establish a surveillance unit separate and apart from the security department. All surveillance unit managers and employees must operate independently from the security department and have no other gambling-related duties.

The second significant proposed change requires Tier IV cardroom business licensees to have at least one surveillance employee present and actively monitoring the gambling operations via the surveillance room during all hours of operation. The room may be unattended for no more than a total of one hour during any shift or eight-hour period for the purposes of required meal and rest breaks. No controlled gambling is allowed to take place when a surveillance employee is not present and on duty in the gambling establishment. However, new subparagraph (A) is proposed to be added to carve out an exception for Tier IV cardroom business licensees with regard to this requirement. This exception allows Tier IV cardroom business licensees to use a key or non-key employee that is not a surveillance unit employee, to be present and on duty in the security room when a surveillance employee is unavailable due to unforeseen exigencies. For this contingency plan to be utilized, it must be recorded and maintained by surveillance period or shift in a surveillance activity log and the contingency plan must be previously approved by the Bureau. The cardroom business licensee is required to notify the Bureau in writing within five days after utilizing the contingency option.

DRAFT

DESCRIPTION OF PROPOSED REGULATORY ACTION SURVEILLANCE

The third significant change requires Tier IV cardroom business licensees to have dedicated cameras at each gaming table that provide surveillance coverage of all controlled gambling at all hours of operation. At least one Pan/Tilt/Zoom (PTZ) camera must be installed for every ten or fewer authorized tables present in any gambling operations area of the gambling establishment. A reasonable attempt must be made to pan the faces of patrons and dealers for identification at least once per work shift.

California gambling establishments are unique in operation with the involvement of licensed third-party providers of proposition player services businesses. Gambling establishments in California generate revenue strictly from collections rather than wins and losses. Thus, table-to-table comparisons with other jurisdictions are not accurate. Depending on the method of collection, and betting limits, a California gaming table may generate more or less revenue than a comparable game in another state. Nevada's requirement for a separate surveillance unit applies to its category A and B licensees with gross revenues of \$15 million or more. As such, to implement requirements more consistent with Nevada's standards, California's Tier IV cardroom business licensees, which operate 31 to 60 tables, should also be required to have a separate surveillance unit. Establishing a separate surveillance unit is a foundation for strong internal controls and is necessary to provide a more robust safety net. Existing Commission regulations already require Tier IV cardroom business licensees to designate at least one employee who holds a valid cardroom category license to video monitor the drop box collection process and that the entire drop box collection process be continuously recorded by video surveillance. Well-trained surveillance operators provide an additional layer of safety by attentively watching surrounding parking lots, suspicious persons, and sensitive areas within the gambling establishment (e.g., count room, cage, vault, etc.). Unattended surveillance systems can only provide evidence after a crime or suspicious event occurs with no opportunity for security personnel or law enforcement to intervene while such events are taking place. A secure surveillance room staffed with trained and experienced employees solely responsible for surveillance functions and monitoring gambling operations during all hours of operation protects the gambling establishment, its patrons, and the state, giving legitimacy to the industry. In addition, the contingency plan option has been proposed due to comments from GPAC members and is necessary to accommodate the smaller staffing levels Tier IV cardroom business licensees may have compared to Tier V cardroom business licensees. Requiring each gaming table to have a dedicated surveillance camera provides an additional layer of safety and security and benefits all gambling establishments in further safeguarding assets, protecting patrons and their property, and maintaining the integrity of games and gaming.