

# ROBB & ROSS

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May 22, 2023

Mr. Alex Hunter  
California Gambling Control Commission  
2399 Gateway Oaks Drive, Suite 220  
Sacramento, CA 95833-4231

Re: Amendments to Surveillance Regulations  
CGCC-GCA-2023-01

Dear Mr. Hunter:

I write on behalf of Artichoke Joe's with comments on the proposed amendments to Regulation 12396, setting minimum internal control standards regarding surveillance.

As a general comment, I note that the Initial Statement of Reasons (hereafter "ISOR") reviews surveillance regulations from five other states that regulate gambling. The ISOR states a desire "to better align with the requirements found in other similar states." However, I question whether states with banked games really are similar to California which does not allow banked games. In this regard, I note that Washington State, which has some casinos with banked games and other casinos without banked games, has some different surveillance regulations each. In banked games, the house is both the player and the one conducting surveillance. It is possible that in states with banked games, surveillance regulations might be intended to protect the public from being cheated by the casino. In California the house does not play in the games and is a neutral party and those considerations from other states would be absent.

I also note that the summaries of regulations from other states are not focused on the particular amendments proposed. The summaries do not include some regulations that are pertinent to the proposed amendments and include other regulations having nothing to do with the particular amendments being made.

Below are comments on specific regulations.

### **Paragraph (a)(1): Required Camera Coverage**

This regulation sets out the required camera coverage and includes a general requirement that the system record “the gambling operation” and more specific language in which the proposed addition is being added. However, the general requirement is vague and ambiguous, and it is not clear whether the specific requirements, including the additions, are intended to define the general phrase or are define part but not all of the general phrase. It is also not clear if they are duplicative of the general phrase. All the other states specify coverage requirements without a similar general phrase and are much clearer. Here is a summary of those laws:

- Nevada: Regulation 5, Surveillance Standards for Nonrestricted Licensees. Standard 3: Card Games. “The surveillance system... must ... record each game area with sufficient coverage to view patrons, dealers, and activities on the card game surfaces.”  
Standard 6: Cage and Vault. “The surveillance system...must...record a general overview of activities occurring in each casino cage and vault area with sufficient clarity to identify employees within the cage and patrons and employees at the counter areas.”  
Standard 7: Count Rooms. “The surveillance system...must...record the soft count room, including all doors to the room, all drop boxes, safes, and counting surfaces, and all count team personnel.”  
Standard 8: Security offices. “The surveillance system...must... record, in both audio and video, the area of any security office or other room in which persons may be detained by casino security personnel.”
- New Jersey, NJAC, Title 13, Ch 69D, Sec. 1.10(b):  
“The CCTV system shall ... (1) monitor...  
“i. The gaming conducted at each gaming table...and the activities in the casino...pits.  
“iii. The operations conducted at and in the cashiers’ cage.  
“vii. The count processes conducted in the count rooms.  
“viii The movement and storage of cash, gaming chips, plaques, drop boxes,...  
“ix. The entrances and exits to the casino...count rooms and all critical locations ad defined in NJAC 13:69D-2-1.”
- Louisiana: Ch. 33, Sec. 3301  
“C. Cameras shall monitor... 1. the operations conducted at the fills

- and credit area of the cashier's cage." D. Cameras..shall monitor ... 2. the count processes conducted in the count rooms; 3. the movement of cash, chips, drop boxes...within the casino and any area of transit of uncounted tokens, chips, cash and cash equivalents; 4. any area where cash or cash equivalents can be purchased or redeemed."
- Mississippi, Rule 6.4 Surveillance Systems: Count Rooms and Cage  
“(a) [The surveillance system shall possess] the capability to monitor and record clear unobstructed views of all areas and transactions within:
    1. The hard count room and any area where uncounted coin is stored during the drop and count process, including walls, corners, doors, scales, wrapping machines, coin sorters, vaults, safes, and general work surfaces.
    2. The soft count room, and any area where uncounted currency is stored during the drop and count process, including walls, corners, doors, drop boxes, vaults, safes, and counting surfaces. All counting surfaces must be transparent; and
    3. The casino cage, including customer windows, employees' windows, cash drawers, vaults, safes, counters, chip storage, and fill windows.
  - (b) All transaction within the hard count room and soft count room must be recorded with sufficient clarity to permit identification of each employee and his movements, and to permit identification of all currency, coins, and paperwork.
  - (c) All transactions within the casino cage must be recorded with sufficient clarity to permit identification of each employee and his movements, and to permit identification of all currency, coins and paperwork.
  - (d) The surveillance department shall follow and record all gaming revenue drops, including emergency drops, and all revenue counts....At a minimum this shall include coverage of the removal and transport of the revenue from the gambling device to the secure location on the casino floor and transportation of the revenue to the count room.”
- Rule 6.5 Surveillance Systems: Table Games and Card Rooms
- (a) The surveillance system “shall possess the capacity to monitor and record clear and unobstructed views of all active table games or card table surfaces, including table bank trays, with sufficient clarity to

permit identification of all chip, cash, dice and card values and the outcome of the game.

(b) The surveillance system "shall possess the capability to monitor and record clear and unobstructed views of the following:

1. All table game and card room areas with sufficient clarity to permit identification of all dealers, patrons, spectators and pit personnel; and

2. All drop boxes and table numbers.

3. Simultaneous coverage of both the table game area and the table game surface.

(c) The surveillance system shall monitor and record clear and unobstructed views of "the table game surface" and "all card room or podium banks, including any drawers, cabinets and safes contained therein."

- Washington 230-15-275 (for Class F, not house banked, card games) "(2) Class F licensees must have a CCTV that views: (a) All gambling at each table including at least, the: (i) Cards; and (ii) Wagers; and (iii) Chip tray; and (iv) Drop box openings; and (v) Table number; and (vi) Players; and Dealers; and (b) When the count is being conducted, at least the: (i) Count table; and (ii) Floor; and (iii) Drop boxes; and (iv) Drop box storage shelves/cabinets."

None of these regulations from other states include a vague requirement like "the gambling operation" as found in the section into which the proposed language would be inserted. All of these other state regulations are much more specific and clear. The existing regulation is not clear. It violates Govt. Code 11349.1 and should be clarified.

A second issue is that insertion of the requirement to record "card values, wagers, and game outcomes" in section (a)(1) renders section (b)(2), which requires the same thing of Tiers II through V, duplicative and unnecessary.

#### **Paragraph (a)(4): Equipment malfunctions**

The existing regulation requires that all surveillance equipment be functional, and when it is not functional, that reasonable efforts be made within 72 hours to repair or replace the malfunctioning equipment. The proposed addition would prohibit gaming in an "area" if required surveillance ceases to be available. It is not

clear how these two sentences jibe and whether the proposed requirement to close an area applies only after the 72 hours or as soon as the malfunction is discovered.

No other state requires shut down without providing other alternatives when surveillance malfunctions. Rather, other states all provide other options.

- Nevada makes a distinction between dedicated cameras and other cameras. If a dedicated camera malfunctions, “the licensee must immediately provide alternative camera coverage or other security measures, such as additional supervisory or security personnel, to protect the subject activity.” 2.010(15). “If other security measures are taken, the licensee must immediately contract the enforcement division who will determine whether the other security measures are adequate.” *Ibid.* As for non-dedicated cameras, while reasonable effort must be made to repair the system within seventy-two hours, only after a week is the licensee required to notify the division of the malfunction. 2.010(14)
- Under New Jersey law, the Division shall be notified immediately of any equipment failure. 13.69D-1.10(h)(8).
- Mississippi makes a distinction between dedicated coverage malfunction and non-dedicated coverage malfunction, and is similar to Nevada. For non-dedicated coverage, it allows 24 hours to make the repairs and then requires closure of the area. Rule 6.9.
- Louisiana requires immediate replacement of faulty equipment and if that is not possible, allows for live monitoring. §3315.
- We have not located any requirements in Washington law regarding equipment malfunction.

Not one of these five states has as strict a rule as the one proposed even though those states all allow banked card games and California does not. The Initial Statement of Reasons states that the purpose of the proposed action is “to better align with ... the requirements found in similar states.” But rather than align with other states, the proposal is for a stricter rule than in these other states. For these reasons, we believe this regulation is stricter than necessary and offer cardrooms other alternatives.

### **Paragraph (b)(1): Surveillance of Exits and Entrances**

The current regulation requires that the surveillance system record the entrances and exits. The proposed amendment would require in addition that the system record entrances and exits “with sufficient clarity to afford reasonable opportunity to identify any person entering and exiting.” This standard is not clear, and is not found in any other state.

What constitutes a “reasonable opportunity to identify” patrons. Further, what is meant by “identify” patrons? This could mean to identify the person by name. However, surveillance cannot identify a person by name (unless facial recognition software is being required, and not even that software can reliably identify people). We suspect that the term “to identify” means to identify by appearance, by dress, by stature, sex, race, etc. so that the person can be recognized if they play or conduct transactions in various places around the room. If that is what is meant, that should be made clear.

Various conditions can restrict the ability to identify a player coming in. The player might have on a big coat or a wide-brimmed hat. Further, when players enter in a group, the view of a patron in the back of the group, behind others, can be obscured by the players in the front.

The ISOR states that this requirement “ensur[es] ... that every person entering and exiting can be clearly identified.” However, the language in the regulation seems to require only a reasonable opportunity to identify players, not to ensure identification. This conflict between the ISOR and language creates confusion.

None of the other states whose regulations are summarized have a similar requirement to have surveillance of entrances and exits to “afford reasonable opportunity to identify” customers.

- Washington doesn’t require surveillance of entrances and exits for non-banked cardrooms.
- Mississippi doesn’t require surveillance of banked cardroom entrances and exists.
- Nevada does not require surveillance of entrances and exits.
- New Jersey and Louisiana both require surveillance of entrances and

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exits but their regulations are similar to the current language, and do not include any requirement like the proposed addition.

Again, if the goal is, as the ISOR states, "to better align with ... the requirements found in similar states," there is no support for the proposed addition.

### **Paragraph (b)(2)**

As noted above, the requirement that the surveillance system record "wagers, card values, and game outcome" is duplicative of proposed language for section (a)(1) and thus rendered obsolete and unnecessary.

### **Subsection (e): Separation of Surveillance Department**

The proposal is to delete subsection (d) and to renumber subsection (e) and make it applicable to Tier IV cardrooms. For the most part, we have no objection, but we have objection to making Paragraph 1 of subsection (e) applicable to Tier IV under its current wording. Paragraph 1 requires that licensees "establish a surveillance unit separate and apart from the security department" and that the "head of the surveillance unit and all surveillance unit personnel must be independent of the security department and have no other gambling-related duties." We have two issues with making this paragraph applicable to Tier IV cardrooms. One, the phrase "gambling-related duties" is vague and ambiguous. Two, depending on the meaning of that phrase, the prohibition against the head of surveillance having "other gambling-related duties" serves no purpose and defeats good purposes.

At Artichoke Joe's, the surveillance manager has been with the company since 2011, and over the years, has taken on other management roles, including upper management roles. In 2015, he also became facilities manager, and in 2020, after the then President of the company died, he became interim president. Currently he serves as a Special Assistant to the President in addition to his roles as Surveillance Manager and Facilities Manager. He is involved in many top level decisions, and is an essential member of management. If the term "gambling-related duties" refers to floor or cage duties such as dealer, floorman, shift manager, or cage cashier, that would not be a problem, but if it includes management duties, we think that defeats rather than serves good control.

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The phrase “gambling-related duties” is vague and ambiguous. It is not defined, and the ISOR provide no guidance to determine with any specificity the duties that might be included. The phrase could include management duties and that is the problem.

The ISOR states that a general purpose of the application of this section to Tier IV cardrooms is to “require[] active monitoring of gambling operations” and to prevent there being “unattended surveillance systems.” In other words, it seems directed at employees of the surveillance system whose duties are to monitor surveillance in real time. They are not to also spend time on other unrelated duties. We fully support that goal, and that does not seem to preclude the surveillance manager from having other management duties.

The ISOR does not state any reason for prohibiting the head of surveillance in a Tier IV cardroom from serving in a broader management role. Further, when this rule was first proposed for Tier V cardrooms in June 2009, the Initial Statement of Reasons for 12396 provided no reason for this rule.

The Initial Statement of Reasons cites to similar rules in other states but none of the other states would prohibit a surveillance manager from also serving as facilities manager or from assisting the President in management.

- Nevada does not have any regulation similar to what is being proposed. Given that Nevada still sets the standard for gambling regulation, that is most significant.
- New Jersey 13:69D-1.10(l)1, requires that “Surveillance department employees assigned to monitor the activities shall be independent of all other departments.” This would not cover the department manager.
- Mississippi would prohibit the “individual responsible for the operation of the Surveillance Department [from] sharing any duties with the individual responsible for the operation of the Security Department.” The reason for this is not clear. However, it would not prevent the head of Surveillance from serving as head of Facilities or from assisting the President.
- Louisiana’s prohibition applies only to employees with monitoring duties and not to department managers. Again, we fully support that.
- Washington State requires the establishment of separate departments but allows the general manager to also perform the duties of a



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gambling operations department manager, which is similar to the role of assistant to the President here.

Again, we find that the broad language in the proposed amendment would exceed the requirements in other states. If the goal is as stated, to align California with similar states, there is no reason to prohibit the surveillance manager from having any other gambling-related duties, and certainly not from other management roles.

We suggest that this subsection be amended to prohibit the head of surveillance from having other "*non-management* gambling-related duties" or that subsection (d) be left in as applicable to Tier IV cardrooms and Paragraph 1 remain part of (e) while the other requirements from (e) replace the requirements currently in (d).

\* \* \*

We appreciate your consideration of these comments.

Sincerely,



Alan Titus