

CSI - Ohio

The Common Sense Initiative

Business Regulation Impact Analysis

Agency Name: Ohio Casino Control Commission (“Commission”)

Regulation/Package Title: Ohio Adm. Code 3772-19 Five Year Review

Rule Number(s): 3772-10-02, 3772-19-01, -02, -03, -04, 05, -06, -07, -08, -09, and -10 (amendments)

Date: February 26, 2019

Rule Type:

New

5-Year Review

Amended

Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

1. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

This package contains rules subject to the five-year review for 2019. Ohio law mandates that agencies review all existing rules to determine if the rules would benefit from modification or repeal. The review must occur within five years of the rule’s effective date. This batch includes rules that relate to casino surveillance systems, responsibilities of surveillance departments, and procedures governing the Commission’s on-site surveillance rooms. Many of the changes are small housekeeping amendments to clean up and clarify rule language. One consistent change, a reflection of present practice, is codifying the Executive Director’s approval authority throughout the rule, given that role’s responsibility to administer casino gaming pursuant to R.C. 3772.06. This will allow for day-to-day casino operations to generally be more dynamic, without sacrificing regulatory oversight.

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- **3772-10-02 (amendment)** – titled “Internal controls.” This rule requires casino operators to submit internal control plans to the Commission. The amendments remove the requirement for internal controls governing surveillance because Ohio Adm.Code 3772-19 is so prescriptive as to not necessitate additional internal controls on the relevant matters. The amendments also delegate authority to the Executive Director to approve conditional licensing items.
- **3772-19-01 (amendment)** – titled “Minimum surveillance requirements.” This rule describes the requirement for each casino operator to have a surveillance system that must operate with the Executive Director's approval. The amended rule bolsters the Commission's ability to ensure the integrity of casino gaming by giving the Commission the authority to conduct both testing and audits of a casino's surveillance system at any time. Because Ohio Adm.Code 3772-1-04 governs waivers granted by the Commission, there is no need to have a waiver provision specific to surveillance and, thus, it has been removed. The purpose of this amendment is to remove duplicative language or provisions articulated in another rule while clarifying a casino operator’s responsibilities with respect to casino surveillance.
- **3772-19-02 (amendment)** – titled “Responsibilities of the surveillance department.” The amendments to this rule are intended to lessen the procedural onus placed upon casino operators to remain compliant with the rules adopted by the Commission, while maintaining the Commission’s ability to ensure the integrity of casino gaming. As the Commission slightly pivots to regulatory oversight primarily by audit rather than prospective review and approval, the amendments to this rule require that a casino operator’s surveillance plan be made available to the Commission, rather than it be submitted for approval prior to implementation. The amendments further clarify that a casino operator's interactive electronic floor plans must show the placement of all surveillance equipment in its facility as well as all the gaming equipment on its floor.
- **3772-19-03 (amendment)** – titled “Required surveillance system.” The purpose of this rule is to detail the baseline requirements for each casino's surveillance system, including video camera quality, video monitor capability, and image capturing utility. Substantively, the amendments provide the option for casino operators to operate a surveillance system that allows for remote access for authorized personnel according to the rule and in accordance with the requirements provided in Ohio Adm.Code 3772-10-15. The amendments further provide that a casino operator’s IT personnel may, for the purposes of maintenance and security, have access to surveillance system hardware and software. Finally, cameras no longer need to be installed in a manner that provides ambiguity of their direction and coverage capabilities, as this provision provided minimal regulatory benefits.
- **3772-19-04 (amendment)** – titled “Commission surveillance room and on-site facilities.” The purpose of the rule is to detail the minimum specifications for the Commission surveillance room, including workstation capabilities, telephone and internet communication systems, and how room location and size are to be determined. The

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amendments are primarily to safeguard the Commission’s ability to ensure the integrity of casino gaming, by providing the Commission with access to (including override access of) the surveillance system, which existed previously in a separate rule but is more appropriately placed here. The amendments are also intended to ensure the Commission’s surveillance room is equipped to facilitate secure remote access to its surveillance system, and that the Commission has absolute control over the provided surveillance equipment.

- **3772-19-05 (amendment)** – titled “Casino surveillance room.” The purpose of this rule is to detail minimum specifications for the casino surveillance room including location of the entrance, limits on access, and minimum surveillance room staff requirements. Pursuant to its five-year review, the amendments attempt to clarify language. Aligning with language changes in other rules, the amendment to the rule specifies it is the Executive Director that may increase the minimum casino surveillance room staffing, and it is the Executive Director and the Director of Surveillance who must authorize non-Commission personnel to enter the casino surveillance room.
- **3772-19-06 (amendment)** – titled “Surveillance department.” The purpose of the rule is to detail minimum operating requirements for each casino’s surveillance department, including the responsibilities of the Director of Surveillance, surveillance employee training, and permitted uses of surveillance resources. Other than replacing the term “Commission” with “Executive Director” throughout the rule, for the reasons articulated above, the only substantive change removes the minimum training requirements for surveillance employees because a similar, near redundant provision exists in Ohio Adm.Code 3772-10-03, rendering this provision unnecessary.
- **3772-19-07 (amendment)** – titled “Required surveillance coverage.” The amendments to this rule require all poker rooms to continue to be monitored and recorded by the surveillance system, just as table game areas are, but allows for a waiver of such surveillance requirements for player against player contests conducted outside of the designated, segregated poker room. Generally, the nature of those events does not require the level of scrutiny that standard table game or slot machine play does, which merits this reduction in surveillance coverage if a plan for otherwise enough coverage is provided to and approved by the Executive Director. Further, the amendments to this rule clarify it is the Executive Director who must approve all surveillance coverage at each casino facility and determine how the surveillance systems of casino facilities will monitor and record activity in non-gaming areas. The amendments also mandate that casino operators maintain and employ at least one secure room for detention purposes equipped with audio and video surveillance equipment capable of continuous monitoring and recording.
- **3772-19-08 (amendment)** – titled “Surveillance retention.” The amendments to this rule seek consistency of language with Ohio Adm.Code 3772-19-09, ensuring paragraph (C) of this rule tracks the language in Ohio Adm.Code 3772-19-09(A). The only other substantive amendment removes a surveillance-specific retention rule because the general retention requirements in Ohio Adm. Code 3772-1-07 and 3772-10-05 already apply.

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- **3772-19-09 (amendment)** – titled “Surveillance reports.” First, as described above, consistent language is sought between paragraph (A) and Ohio Adm.Code 3772-19-08(C). Second, while it appears that many of the surveillance log requirements were eliminated, these amendments merely reflect present practice in that this information is required to be tracked, reported, or otherwise memorialized in other fashions. Therefore, much of this rule required items to be logged for the sake of being logged, which became redundant and tedious work, and shifted forces from actual surveillance. The amendments provide the Commission continuous access to surveillance reports without the reports needing to be stored in a manner that prevents alteration entirely because alterations may be necessary and are acceptable if tracked access is limited to surveillance and Commission employees.
- **3772-19-10 (amendment)** – titled “Maintenance and malfunctions.” The amendments to this rule are intended to clarify responsibilities during maintenance malfunctions. No substantive changes, other than those related to the insertion of “Executive Director” were made. All remaining changes are merely to clarify and better articulate a casino operator’s responsibilities under this rule.

2. Please list the Ohio statute authorizing the Agency to adopt this regulation.

R.C. 3772.03.

3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program?

If yes, please briefly explain the source and substance of the federal requirement.

Not applicable.

4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.

This question is not applicable to these amendments because the federal government does not regulate casino gaming in this state. Rather, casino gaming is permitted pursuant to Article XV, Section 6(C) of the Ohio Constitution and is controlled by Ohio’s Casino Control Act (i.e., R.C. Chapter 3772).

5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?

Article XV, Section 6(C) of the Ohio Constitution and R.C. Chapter 3772 require the Commission to ensure the integrity of casino gaming and to prescribe rules for how casino gaming should be conducted, including prescribing technical standards and requirements that are to be met by surveillance equipment, standards and requirements to be met by personnel

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who are employed at casino facilities, and standards and requirements for the surveillance of casino facilities. These amendments are designed to continue to effectuate this constitutional and statutory mandate by streamlining surveillance requirements based on over six years of casino gaming operations in the State of Ohio and allowing for more dynamic daily operations without sacrificing necessary regulatory oversight.

6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?

Overall, the Commission will measure the success of the amendments in terms of whether they help to ensure the integrity of casino gaming while recognizing the limited practical concerns casino operators face. This can be done in two ways: First, through evaluating whether the administrative cost of implementing and enforcing the proposed amendments outweighs their public benefit. Second, through analyzing the regulated community's comments about requests for waivers or variances from the rules once the amendments are implemented.

Development of the Regulation

7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.

If applicable, please include the date and medium by which the stakeholders were initially contacted.

Casino Operators

- Penn National Gaming, Inc. ("Penn"): Hollywood Casinos Columbus and Toledo
- JACK Entertainment, LLC ("JACK"): JACK Cincinnati and Cleveland Casinos

Casino operators were provided an opportunity to comment on the amendments via e-mail on January 18, 2019. (Exhibit 1.) Comments were requested to be submitted, in writing, by 5:00 PM on February 4. Additionally, Commission staff conducted multiple phone calls with both JACK and Penn prior to the comment deadline to answer questions and discuss the structure and intent of the amendments. Finally, stakeholders had the opportunity to comment during the Commission's public meeting on February 20, 2019.

8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?

As noted above, Commission staff participated in several phone calls with JACK and Penn, prior to their submission of written comments. Notably, these amendments were sent to stakeholders with several other unrelated amendments and the phone calls covered all of them, though nearly all the discussion was focused on those not included in this business impact analysis. However, one written comment related to these amendments was received from JACK, which echoed the previous telephone conversations. (Exhibit 2.)

9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

This question does not apply to these amendments because no scientific data was necessary to develop or measure their outcomes. Instead, Commission staff reviewed how other jurisdictions approached rules regarding casino surveillance. Further, Commission staff considered past practice under the rules as presently written, whether the existing rules were the most efficient means by which to maintain the integrity of casino gaming in this context, and whether any waivers or variances had been requested and granted to the regulated community, all with an eye on its pivot towards regulatory oversight primarily by audit rather than prospective review and approval. In so doing, the Commission was able to use, as much as possible, rules the regulated community is accustomed to within the industry, with minor adaptations to remain in compliance with Ohio law.

10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?

Commission staff reviewed the rules adopted in other jurisdictions and the suggestions provided by the stakeholders and other members of the industry. Further, Commission staff considered any waivers or variances to existing rules that had been requested and granted. The amendments are a conglomeration of the rules used in other jurisdictions with adaptations made for Ohio and are, in some cases, the result of discussions between Commission staff and the regulated community, including reflections of existing waivers or present practice.

11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

These rules largely include a performance-based component wherein they set the floor for compliance but do not completely dictate how the casino operators are supposed to achieve compliance. Additionally, Ohio Adm. Code 3772-1-04 allows stakeholders to seek waivers and variances from these rules, which the Commission will evaluate on a case-by-case basis and may grant if it determines that doing so is in the public's best interest. There is even a specific waiver provision governing surveillance coverage of certain player against player contests that may be submitted to the Executive Director. Past performance of a casino may be considered in determining whether a request for exemption under these rules or a waiver from any specific provisions of these rules should be granted.

12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

This question does not apply to these amendments because no other regulations, in these areas, currently exist with respect to casino gaming in this state, over which the Commission has sole authority.

13. Please describe the Agency’s plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.

At each casino facility, there are gaming agents and financial auditors observing, evaluating, and investigating the operations. In addition, the Commission’s Regulatory Compliance personnel conduct regular audits to ensure compliance with Ohio law. Any issues that arise will be funneled to the Commission’s central office in Columbus, Ohio, where the Executive Director and the division directors can coordinate a consistent response and conduct outreach to the regulated community.

Adverse Impact to Business

14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:

a. Identify the scope of the impacted business community;

The casino operators and management companies (described above in response to Question 7) are the impacted business community with respect to these rules and amendments.

b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and

The nature of the potential adverse impact from the amendments include fines for noncompliance, costs for employee time and payroll for, among other things, developing internal procedures, training, and sending notifications and reports to the Commission, as well as the potential for other monetary costs to the casino operators, as described more fully below.

c. Quantify the expected adverse impact from the regulation.

The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.

Each casino operator in Ohio already has a comprehensive surveillance system and staff in place to monitor casino gaming and they are already accustomed to

operating under the rules as presently written, having done so since the inception of casino gaming in Ohio. As noted above, the Commission is slightly pivoting toward regulatory oversight primarily by audit rather than prospective review and approval. In that vein, these amendments significantly reduce the regulatory burden presently imposed by the rules and allow casino operators to focus on effective casino surveillance rather than completing paperwork or other administrative tasks of little regulatory necessity.

As noted above, one consistent change throughout the amendments, which is also a reflection of present practice, is codifying the Executive Director's approval authority throughout the rules, given that role's responsibility to administer casino gaming pursuant to R.C. 3772.06. The Commission anticipates this to have a positive impact on business because it will allow for day-to-day casino operations to generally be more dynamic, without sacrificing regulatory oversight.

- **Ohio Adm. Code 3772-10-02 (amendment), “Internal controls.”** This rule requires casino operators to submit internal control plans to the Commission for approval, including one for casino surveillance. Given the specificity of the rules contained in Ohio Adm. Code 3772-19 governing surveillance, no additional internal controls are necessary and developing them largely resulted in merely duplicating language in the administrative rules. Therefore, the amendment removes that requirement and, as a result, the Commission does not anticipate an adverse impact from doing so.
- **Ohio Adm. Code 3772-19-01 (amendment), “Minimum surveillance requirements.”** This rule describes the requirement that each casino operator have a surveillance system that must operate with the Executive Director's approval and includes a waiver provision specific to surveillance requirements. That waiver provision mirrors the Commission's general waiver rule, Ohio Adm. Code 3772-1-04, and therefore is not necessary. This amendment removes it and the Commission does not anticipate an adverse impact from doing so.
- **Ohio Adm. Code 3772-19-02 (amendment), “Responsibilities of the surveillance department.”** This rule previously described the items required to be included in a casino's surveillance plan, which was part of its Commission-approved internal controls. However, as noted above, these amendments eliminate the requirement for internal controls so the requirement for a surveillance plan must also be removed. However, the underlying substance in the rule remains and specifies the items that each casino operator must maintain and make available to the Commission in the operation of its surveillance department. They no longer need to obtain Commission approval prior to implementation through and this allows the casinos to operate as they choose and in a more adaptable fashion, so long

as they do so according to the rule. As a result, the Commission does not anticipate an adverse impact on business.

- **Ohio Adm. Code 3772-19-03 (amendment), “Required surveillance system.”** This rule details the baseline requirements for each casino’s surveillance system, including video camera quality, video monitor capability, and image capturing utility. At least, the Commission does not anticipate an adverse impact but, rather, all three substantive amendments will likely have a positive impact on business. First, remote access of the surveillance system will be permitted for authorized casino personnel, the Commission, and system vendors. Although there were various one-time expenses for each of the casinos to achieve compliance, they were limited in scope and those costs will be significantly outweighed by the future savings, including the reduction of the costs related to system maintenance and repair because travel to each casino will no longer be necessary to the extent that it is now. Second, casino IT personnel will now be permitted to have access to surveillance system hardware and software for maintenance and security, allowing for the surveillance department to focus on surveillance the IT personnel to focus on proper operation of the casino’s systems. Third, cameras no longer need to be installed in such a way to hide their direction and coverage capability. Upon consideration of casino operations in the State of Ohio, it became clear that the cost of this requirement outweighed its regulatory benefit and, as a result, the amendments eliminate it.
- **Ohio Adm. Code 3772-19-04 (amendment), “Commission surveillance room and on-site facilities.”** This rule details the minimum specifications for the Commission surveillance room. The only substantive amendment not already discussed is the requirement that the Commission surveillance room also be equipped to facilitate remote access to the surveillance system. However, as noted above, this feature will significantly reduce costs related to maintenance and repair of the surveillance system. And although there were various one-time expenses for each of the casinos to achieve compliance, they were limited in scope and those costs will be significantly outweighed by anticipated future savings. Therefore, the Commission does not anticipate an overall adverse impact because of these amendments.
- **Ohio Adm. Code 3772-19-05 (amendment), “Casino surveillance room.”** This rule specifies the minimum requirements for a casino surveillance room. All the amendments are intended to remove superfluous language, clarify existing language, and more accurately reflect present practice. The Commission does not anticipate an adverse impact.
- **Ohio Adm. Code 3772-19-06 (amendment), “Surveillance department.”** This rule details the minimum operating requirements for each casino’s

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surveillance department. The only substantive amendment not already discussed is the removal of a training provision specific to the surveillance department. However, much like the waiver requirement removed from Ohio Adm. Code 3772-19-01, this requirement is removed because a similar, nearly identical provision exists in Ohio Adm. Code 3772-10-03, rendering this one unnecessary. The Commission does not anticipate an adverse impact.

- **Ohio Adm. Code 3772-19-07 (amendment), “Required surveillance coverage.”** This rule describes the required surveillance coverage for various aspects of casino gaming operations and there are two substantive amendments. The Commission does not anticipate an adverse impact from either of them. First, in conjunction with other new rules and amendments not contained in this business impact analysis, the amendments clarify that casinos may seek and obtain a waiver from certain requirements normally applicable to slot machine, poker, and other table game play for player against player contests conducted outside of the poker room. This amendment acknowledges that the nature of these events merits a reduction in surveillance coverage if a casino operator develops a sufficient coverage plan otherwise. Doing so will allow casinos to focus surveillance resources on games that carry the most risk. Second, upon request by at least one casino operator, language governing dedicated audio and video surveillance of at least one room used for detention purposes was modified for clarification.
- **Ohio Adm. Code 3772-19-08 (amendment), “Surveillance retention.”** This rule governs retention requirements for casino surveillance. One amendment removes surveillance plan requirements because, as noted above, casino operators no longer need to maintain a surveillance plan or surveillance internal controls. All the remaining amendments are merely to clarify language and achieve consistency between this rule and Ohio Adm. Code 3772-19-09. The Commission does not anticipate an adverse impact.
- **Ohio Adm. Code 3772-19-09 (amendment), “Surveillance reports.”** This rule governs surveillance reports and logs. First, it was amended to achieve consistency with Ohio Adm. Code 3772-19-08. Second, much of the existing language is removed because it contained reporting or logging requirements that are either unnecessary or appear elsewhere, rendering this language superfluous. Finally, the amendments remove a provision that previously required surveillance logs, incident reports, and visitor’s logs to be stored in a format that prevents alteration. Alterations, if they are logged, are common and reasonable. All casino operators use a Commission-approved surveillance system that tracks amendments to these documents and no

additional changes are necessary to achieve compliance. The Commission does not anticipate an adverse impact.

- **Ohio Adm. Code 3772-19-10 (amendment), “Maintenance and malfunctions.”** The only substantive change to this rule is the insertion of “Executive Director,” as discussed above. Otherwise, language was adjusted for clarity and to reflect present practice. The Commission does not anticipate an adverse impact.

15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

First, as noted above, the Commission anticipated very little adverse impact because of these amendments, which will likely be mitigated by cost-savings resulting from the amendments. Second, each of the amendments in this package is needed to correct current issues, such as conflicting provisions of law, to clarify the Commission’s interpretation of a particular rule, or is specifically required to be adopted by a provision of the Revised Code. The regulatory intent justifies any adverse impact because Article XV, Section 6(C) of the Ohio Constitution and R.C. Chapter 3772 require the Commission to ensure the integrity of casino gaming. To do so, the Commission is charged with the responsibility of requiring the casinos to establish and implement certain standards regarding casino surveillance.

Casino gaming is a highly regulated industry. Unregulated gaming poses a threat to the public welfare and raises the potential for fraud and abuse. To mitigate these threats, the Commission, like other gaming regulatory bodies, is using its regulatory authority to establish a best practice framework for the regulated community.

Regulatory Flexibility

16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

Yes (indirectly), though it is unlikely this will be necessary since these regulations only impact the casinos, none of which likely constitute a small business. Further, these rules and amendments indirectly provide exemption or alternative means of compliance through Ohio Adm. Code 3772-1-04, which permits the Commission, upon written request, to grant waivers and variances from the rules adopted under R.C. Chapter 3772, including these rules, if doing so is in the best interest of the public and will maintain the integrity of casino gaming in the State of Ohio.

17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?

Though it is unlikely R.C. 119.14 will apply to these rules and amendments because the rules only impact the casinos, none of which likely constitute a small business, the Commission will adhere to the statutory requirements thereunder, if applicable.

To the extent R.C. 119.14 would apply to a violation of these rules and amendments, the Commission will provide verbal and written notification to the small business to correct the paperwork violation. Thereafter, the Commission would allow the small business a reasonable time to correct the violation. The Commission and its staff would also offer any additional assistance necessary to aid in remediation of the violation. No further action would be taken unless the small business fails to remedy the violation within the reasonable time allotted by the Commission.

18. What resources are available to assist small businesses with compliance of the regulation?

The Commission and its staff are dedicated to working with members of the regulated community and the public to effectively and efficiently regulate casino gaming in this state. As a result, the following resources are available:

- Commission's mailing address:
100 E. Broad Street, 20th Floor
Columbus, OH 43215
- Commission's toll-free telephone number: (855) 800-0058
- Commission's fax number: (614) 485-1007
- Commission's website: <http://www.casinocontrol.ohio.gov/>
- Commission's email: info@casinocontrol.ohio.gov

Also, all members of the regulated community may, in accordance with rule 3772-2-04, request to address the Commission during a public meeting. Finally, all members of the regulated community may, pursuant to rule 3772-1-04, request waivers and variances from Commission regulations.

From: Siba, Michelle
Sent: Friday, January 18, 2019 3:10 PM
To: 'Porter, Samuel'; Mackin, Lynne; McGrady, Jessica; 'Cynthia Hays'; Lisa Powers; Robert Wamsley
Cc: Donahue, Craig; Fleenor, Chris
Subject: Proposed Rule Changes: Ohio Adm. Code 3772-13, -14, and -19
Attachments: 3772-19 5YR.pdf; 3772-13.pdf; 3772-14.pdf

Good afternoon everyone,

Attached you will find three packets of proposed rule changes. The first contains all of Ohio Adm. Code 3772-19, which governs surveillance. All of these changes are pursuant to the Commission's statutory duty to review its rules at least once every five years. The other two, titled Ohio Adm. Code 3772-13 (amendments) and 3772-14 (new rules) contain several changes related to the regulation of advertisements, promotions, and player against player contests (which include poker, poker tournaments, table game tournaments, and slot tournaments). Please share these with your teams.

We understand that there may be questions regarding these changes after you have taken some time to read, review, and discuss them; please do not hesitate to call Craig Donahue (614387-5687), Chris Fleenor (614-387-0314), or me. **If, however, you would like to provide written comments, please do so by 5:00 p.m. on February 4.**

Thank you all.

Michelle



Michelle Siba

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From: Cynthia Hays <CynthiaHays@jackentertainment.com>
Sent: Monday, February 04, 2019 2:25 PM
To: Siba, Michelle
Cc: Donahue, Craig; Fleenor, Chris; Lisa Powers; Robert Wamsley; Dan Reinhard
Subject: RE: Proposed Rule Changes: Ohio Adm. Code 3772-13, -14, and -19

Good afternoon Michelle.

Thank you to you, Craig, and Chris for taking time to talk with us last week to answer questions and provide some clarifications on the proposed rule changes. After those discussions, we really only have a couple of remaining comments/requests. Please see the items below.

Comment re Promotional Rules Draft

A new requirement, “criteria for eligibility” was introduced into OAC 3772-13-03 in the section covering written, dated, and public-facing promotional rules. After discussing with you last week, we wanted to make sure that we are on the same page with the interpretation of “eligibility” when it comes to the public facing rules. As we discussed, we all agreed that we “eligibility” for these purposes to be, for example, “invited ClubJACK members”. Our concern, however, is that the “criteria for eligibility” could be interpreted to be much more specific and to actually require us to include the specific criteria in the rules (e.g. specific targeted audience based on ADT, account balances, etc., i.e. “the secret marketing sauce”). We are absolutely able and willing to provide the detailed criteria for eligibility to the Commission upon request, but would like to request that the rule governing promotional rules reflect “criteria for entry” which aligns more closely to how they are drafted and how it is stated now.

Comment re Surveillance Rules Draft

In the proposed revisions, we found that OAC 3772-19-09(F) mirrors the inserted line in OAC 3772-19-09(C). We’ve interpreted the current rule (F) to mean that Surveillance reports may permit alteration as long as it is tracked for each person making the edit and limited to the Surveillance team. This is because there are surveillance reports that require alteration. One example is the report that is opened when the drop starts. That report is updated throughout the course of the drop with times and any incidents that may occur. Another example would be a CTR log entry. When there is research completed after the fact, those reports need to be updated to reflect the findings and provide additional detail. We want to make sure that we will still be able to update these as is our standard process so suggest a potential change to this language to be something along the following, which we believe more closely reflects the intent:

- a. “Surveillance reports must be stored in a format that only permits alteration by Surveillance”;
- b. “Surveillance reports must be stored in a format that only permits alterations that are tracked to include name, date, and time of the edit”;
- c. A combination of the limitations for alteration; or
- d. Removing the rule entirely because alterations may be permitted.

Please contact me if you have any questions or concerns with these items.
Thank you again for your assistance!

CYNTHIA HAYS

CORPORATE VICE PRESIDENT OF COMPLIANCE

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From: Michelle.Siba@casinocontrol.ohio.gov [mailto:Michelle.Siba@casinocontrol.ohio.gov]

Sent: Friday, January 18, 2019 3:10 PM

To: Porter, Samuel <Samuel.Porter@pngaming.com>; Mackin, Lynne <Lynne.Mackin@pngaming.com>; McGrady, Jessica <Jessica.McGrady@pngaming.com>; Cynthia Hays <CynthiaHays@jackentertainment.com>; Lisa Powers <LisaPowers@jackentertainment.com>; Robert Wamsley <RobertWamsley@jackentertainment.com>

Cc: Craig.Donahue@casinocontrol.ohio.gov; chris.fleenor@casinocontrol.ohio.gov

Subject: Proposed Rule Changes: Ohio Adm. Code 3772-13, -14, and -19

Good afternoon everyone,

Attached you will find three packets of proposed rule changes. The first contains all of Ohio Adm. Code 3772-19, which governs surveillance. All of these changes are pursuant to the Commission's statutory duty to review its rules at least once every five years. The other two, titled Ohio Adm. Code 3772-13 (amendments) and 3772-14 (new rules) contain several changes related to the regulation of advertisements, promotions, and player against player contests (which include poker, poker tournaments, table game tournaments, and slot tournaments). Please share these with your teams.

We understand that there may be questions regarding these changes after you have taken some time to read, review, and discuss them; please do not hesitate to call Craig Donahue (614387-5687), Chris Fleenor (614-387-0314), or me. **If, however, you would like to provide written comments, please do so by 5:00 p.m. on February 4.**

Thank you all.

Michelle



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