



# Common Sense Initiative

Mike DeWine, Governor  
Jon Husted, Lt. Governor

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## Business Impact Analysis

Agency, Board, or Commission Name: Ohio Casino Control Commission  
("Commission")

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Regulation/Package Title (a general description of the rules' substantive content):

Ohio Adm. Code 3772-19 Five Year Review

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

Date of Submission for CSI Review: September 18, 2019

Public Comment Period End Date: October 2, 2019

**Rule Type/Number of Rules:**

New/  rules

No Change/  rules (FYR? )

Amended/  rules (FYR? )

Rescinded/  rules (FYR? )

The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing

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regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### **Reason for Submission**

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a.  Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b.  Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c.  Requires specific expenditures or the report of information as a condition of compliance.
- d.  Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

### **Regulatory Intent**

2. 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 rules, given that role's responsibility to administer casino gaming pursuant to R.C. 3772.06, in contrast to the matters that must be presented to the Commission at a public meeting.

- **3772-19-01 (amendment)** – titled “Definitions.” This rule sets forth definitions for various terms related to casino surveillance. The purpose of this rule is to further clarify the meaning of certain terms used throughout Ohio Adm.Code 3772-19.

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- **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 be submitted for approval prior to implementation. However, the Executive Director must still approve any modifications or upgrades to a surveillance system. 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. Lastly, the provision requiring the surveillance department to receive and monitor open-door alerts for all slot machines was also relocated to this section in an effort to better differentiate between coverage and system.
- **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. The amendments largely focus on clarifying and simplifying the rule as a whole in order to eliminate redundancy and differentiate between coverage and system and the extent to which a casino operator must seek Commission- or Executive Director-approval prior to making changes. 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. 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 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. Additionally, the amendments adjust the limits on access to include IT personnel and Commission personnel,

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in addition to casino surveillance personnel. 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 other persons 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 do not require the level of scrutiny that standard table game or slot machine play does, which merits this reduction in surveillance coverage as long as a plan for otherwise sufficient 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, in particular 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.
- **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. As a consequence, 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

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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.

**3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

R.C. 3772.03

**4. 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.

**5. 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).

**6. 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 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.

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**7. 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.

**8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

No.

**Development of the Regulation**

**9. 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

The Commission first considered amendments to these rules in January 2019. Since then, those proposed amendments have been further modified and are being resubmitted through the rule-filing process. Originally, casino operators were provided an opportunity to comment on the original 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 that comment deadline to answer questions and discuss the structure and intent of the amendments. The original amendments were never adopted by the Commission.

Rather, after further additions and modifications to the rules, casino operators were provided an opportunity to comment via e-mail on August 28, 2019. (Exhibit 2.) Comments were requested to be submitted, in writing, by 12:00 PM on September 5. Finally, one very minor change was made to one rule on September 16 and stakeholders were made aware that day. (Exhibit 3.)

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

The Commission received correspondence from both Hollywood and JACK. JACK, each time the rules were distributed to stakeholders, had questions that the Commission resolved simply through discussions. The first comment, back in February, contributed to the Commission making an additional edit to rule 3772-19-09, by removing prohibitions on the alteration of surveillance reports. (Exhibit 3). The second comment, received from JACK, in August, was truly only a clarifying question and did not necessitate any changes or result in JACK asking for any changes. (Exhibit 4). Hollywood Columbus simply let the Commission know that they had no questions or comments on the rules when they were submitted the second time (Exhibit 5). Finally, stakeholders had the opportunity to comment during the Commission's public meeting on September 18, 2019.

**11. 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.

**12. 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.

**13. 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.

**14. 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.

**15. 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**

**16. 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; and**

The casino operators and management companies (described above in response to Question 9) are the impacted business community with respect to these rules and amendments.

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**b. Identify the nature of all adverse impact (e.g., 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 are intended to significantly reduce the regulatory burden presently imposed by various points in 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, in contrast to the matters that must be presented to the Commission at a public meeting. 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 3772-19-01 (amendment), “Definitions.”** This rule sets forth definitions for various terms related to casino surveillance. The amendments to this rule further clarify the meaning of certain terms used throughout Ohio Adm.Code 3772-19, and therefore, the Commission does not anticipate an adverse impact.
- **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, these amendments eliminate the requirement for internal controls, so the requirement for a

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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 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; however, they still must obtain the Executive Director's approval for any modifications or upgrades to a surveillance system. This section also sets forth the provision requiring the surveillance department to receive and monitor open-door alerts for all slot machines. This provision was relocated to this section and does not impose additional requirements on the surveillance department. As a result of the provisions in this amendment being either already in place or being curtailed from front-end approval to an audit-based approach, 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 the least, the Commission does not anticipate an adverse impact but, rather, the 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, several requirements regarding the cameras, including the cameras no longer needing to be installed in such a way to hide their direction and coverage capability, have been removed or curtailed. Upon consideration of casino operations in the State of Ohio, it became clear that the cost of these requirements outweighed their regulatory benefit. Other amendments to this section simplify and clarify the language to the rule and should not have an adverse impact.
- **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 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

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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. Many of the amendments are intended to remove superfluous language, clarify existing language, and more accurately reflect present practice. However, 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 and the IT personnel to focus on proper operation of the casino’s systems, which should result in a positive business impact. Given this, the Commission does not anticipate an overall adverse impact.
- **Ohio Adm. Code 3772-19-06 (amendment), “Surveillance department.”**  
This rule details the minimum operating requirements for each casino’s surveillance department. The only substantive amendment is the removal of a training provision specific to the surveillance department. However, this requirement is covered by a nearly identical provision 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 three substantive amendments. The Commission does not anticipate an adverse impact from any 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. Therefore, this should not result in an adverse impact.
- **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.

**17. 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**

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**18. 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.

**19. 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.

**20. 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, 20<sup>th</sup> 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/>

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- Commission's email: [info@casinocontrol.ohio.gov](mailto: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.

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**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**

Deputy General Counsel  
Ohio Casino Control Commission  
(614) 387-0485

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**Cox, William**

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**From:** Cox, William  
**Sent:** Wednesday, August 28, 2019 4:58 PM  
**To:** Mackin, Lynne; McGrady, Jessica; Cynthia Hays; Lisa Powers; Robert Wamsley; Sam Porter III  
**Cc:** Fleenor, Chris; Donahue, Craig; Siba, Michelle  
**Subject:** Proposed Rule Changes: Ohio Adm. Code 3772-19  
**Attachments:** 20190828 Proposed Changes to 3772-19 Surveillance.pdf

Good afternoon RCOs,

Attached, please find proposed amendments to Ohio Adm. Code Chapter 3772-19. Please share them with your teams and **provide any comments to me, in writing, by NOON on Thursday, September 5**. The Commission will consider these rules for initial approval, including any changes made as a result of comments received from you, at the September 18 public meeting.

Please note, you have seen most of these proposed changes already when they were sent to you on January 18, 2019 and February 26, 2019. The new changes were made after final approval of the original set of changes was postponed from the June public meeting and, as a result, we need to restart the formal rule-filing process. Nearly all of the new changes are related to Commission internal management.

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 me, if there are.

Thank you all.



**William J. Cox**

Assistant General Counsel  
Ohio Casino Control Commission  
(614) 387-0482

[William.Cox@casinocontrol.ohio.gov](mailto:William.Cox@casinocontrol.ohio.gov)

**Siba, Michelle**

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**From:** Siba, Michelle  
**Sent:** Monday, September 16, 2019 12:54 PM  
**To:** Mackin, Lynne; McGrady, Jessica; Cynthia Hays; Lisa Powers; Robert Wamsley; Sam Porter III  
**Cc:** Fleenor, Chris; Donahue, Craig; Cox, William  
**Subject:** RE: Proposed Rule Changes: Ohio Adm. Code 3772-19  
**Attachments:** Proposed Amended Rules for Initial Filing\_September 2019.pdf

Good afternoon everyone,

I wanted to bring one minor change that was just made to Ohio Adm.Code 3772-19-03(L), which is found at the top of page 6 in the attached document. The proposed amendment previously read, "Passwords must be specific to each surveillance employee and shall be changed every thirty days or sooner if necessary." The new proposed change you'll see in the attachment reads, "Passwords must be specific to each surveillance employee and shall be changed every thirty days or sooner if necessary, **as determined by the director of surveillance.**"

Please let me know if you have any questions. These rules are still slated for initial approval at the public meeting on Wednesday.

Thank you.

Michelle



**Michelle Siba**

Deputy General Counsel  
Ohio Casino Control Commission  
(614) 387-0485

[Michelle.Siba@casinocontrol.ohio.gov](mailto:Michelle.Siba@casinocontrol.ohio.gov)

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**From:** Cox, William <William.Cox@casinocontrol.ohio.gov>  
**Sent:** Wednesday, August 28, 2019 4:58 PM  
**To:** 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>; Sam Porter III <samual.porter@icemiller.com>  
**Cc:** Fleenor, Chris <chris.fleenor@casinocontrol.ohio.gov>; Donahue, Craig <Craig.Donahue@casinocontrol.ohio.gov>; Siba, Michelle <Michelle.Siba@casinocontrol.ohio.gov>  
**Subject:** Proposed Rule Changes: Ohio Adm. Code 3772-19

Good afternoon RCOs,

Attached, please find proposed amendments to Ohio Adm. Code Chapter 3772-19. Please share them with your teams and **provide any comments to me, in writing, by NOON on Thursday, September 5**. The Commission will consider these rules for initial approval, including any changes made as a result of comments received from you, at the September 18 public meeting.

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from the June public meeting and, as a result, we need to restart the formal rule-filing process. Nearly all of the new changes are related to Commission internal management.

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 me, if there are.

Thank you all.



**William J. Cox**

Assistant General Counsel

Ohio Casino Control Commission

(614) 387-0482

[William.Cox@casinocontrol.ohio.gov](mailto:William.Cox@casinocontrol.ohio.gov)

**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

D: 313-309-7476

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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



**Michelle Siba**

Deputy General Counsel

Ohio Casino Control Commission

(614) 387-0485

[Michelle.Siba@casinocontrol.ohio.gov](mailto:Michelle.Siba@casinocontrol.ohio.gov)

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**Cox, William**

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**From:** Mackin, Lynne <Lynne.Mackin@pngaming.com>  
**Sent:** Thursday, August 29, 2019 8:34 AM  
**To:** Cox, William  
**Cc:** Samuel.Porter@icemiller.com  
**Subject:** RE: Proposed Rule Changes: Ohio Adm. Code 3772-19

William,

We have reviewed and have no questions or changes.

Thanks

Lynne Mackin

---

**From:** William.Cox@casinocontrol.ohio.gov <William.Cox@casinocontrol.ohio.gov>  
**Sent:** Wednesday, August 28, 2019 4:58 PM  
**To:** 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>; Sam Porter III <samual.porter@icemiller.com>  
**Cc:** chris.fleenor@casinocontrol.ohio.gov; Craig.Donahue@casinocontrol.ohio.gov; Michelle.Siba@casinocontrol.ohio.gov  
**Subject:** Proposed Rule Changes: Ohio Adm. Code 3772-19

Good afternoon RCOs,

Attached, please find proposed amendments to Ohio Adm. Code Chapter 3772-19. Please share them with your teams and **provide any comments to me, in writing, by NOON on Thursday, September 5**. The Commission will consider these rules for initial approval, including any changes made as a result of comments received from you, at the September 18 public meeting.

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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 me, if there are.

Thank you all.



**William J. Cox**

Assistant General Counsel  
Ohio Casino Control Commission  
(614) 387-0482

[William.Cox@casinocontrol.ohio.gov](mailto:William.Cox@casinocontrol.ohio.gov)

**Cox, William**

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**From:** Cox, William  
**Sent:** Wednesday, September 04, 2019 1:05 PM  
**To:** Lisa Powers  
**Cc:** Adam Leuschen  
**Subject:** RE: Proposed Rule Changes: Ohio Adm. Code 3772-19

Lisa,

Not a problem. The Director of Surveillance need not approve each and every individual access but may instead set forth a list of approved positions and/or persons who will be permitted access to the viewing room generally.

Thanks,  
Will

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**From:** Lisa Powers [mailto:LisaPowers@jackentertainment.com]  
**Sent:** Wednesday, September 04, 2019 8:45 AM  
**To:** Cox, William <William.Cox@casinocontrol.ohio.gov>  
**Cc:** Adam Leuschen <AdamLeuschen@jackentertainment.com>  
**Subject:** Re: Proposed Rule Changes: Ohio Adm. Code 3772-19

Hi Will,

Sorry, I think I worded my question poorly - does the Director of Surveillance have to approve access for every entry to the viewing room or can the Director of Surveillance set forth an approved list of positions?

Thanks,

Lisa  
513.667.4506

Sent from my iPhone

On Sep 3, 2019, at 5:50 PM, "[William.Cox@casinocontrol.ohio.gov](mailto:William.Cox@casinocontrol.ohio.gov)" <[William.Cox@casinocontrol.ohio.gov](mailto:William.Cox@casinocontrol.ohio.gov)> wrote:

Lisa,

Your interpretation is correct. Let me know if you have any further questions.

Happy to discuss,  
Will

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**From:** Lisa Powers [<mailto:LisaPowers@jackentertainment.com>]  
**Sent:** Friday, August 30, 2019 12:48 PM  
**To:** Cox, William <[William.Cox@casinocontrol.ohio.gov](mailto:William.Cox@casinocontrol.ohio.gov)>  
**Cc:** Adam Leuschen <[AdamLeuschen@jackentertainment.com](mailto:AdamLeuschen@jackentertainment.com)>  
**Subject:** RE: Proposed Rule Changes: Ohio Adm. Code 3772-19

Good Afternoon Will,

One question from our initial review, with respect to the definition of Surveillance viewing room in OAC 3772-19-01(E), once the Director of Surveillance approves a list of non-surveillance positions permitted to view footage in the viewing room, can we then authorize any Surveillance team member to escort the approved position into the viewing room? We are interpreting it strictly and want to ensure this does not limit us to the Director of Surveillance being the only person who can approve someone going into the viewing room on a 24/7 basis.

Thank you,  
Lisa

**LISA POWERS**  
DIRECTOR OF COMPLIANCE  
D: 216-297-4798  
M: 513-667-4506  
[LISAPOWERS@JACKENTERTAINMENT.COM](mailto:LISAPOWERS@JACKENTERTAINMENT.COM)

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[WWW.JACKENTERTAINMENT.COM](http://WWW.JACKENTERTAINMENT.COM)  
MAIN: 216-297-4777

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**From:** [William.Cox@casinocontrol.ohio.gov](mailto:William.Cox@casinocontrol.ohio.gov) [<mailto:William.Cox@casinocontrol.ohio.gov>]  
**Sent:** Wednesday, August 28, 2019 4:58 PM  
**To:** Mackin, Lynne <[Lynne.Mackin@pngaming.com](mailto:Lynne.Mackin@pngaming.com)>; McGrady, Jessica <[Jessica.McGrady@pngaming.com](mailto:Jessica.McGrady@pngaming.com)>; Cynthia Hays <[CynthiaHays@jackentertainment.com](mailto:CynthiaHays@jackentertainment.com)>; Lisa Powers <[LisaPowers@jackentertainment.com](mailto:LisaPowers@jackentertainment.com)>; Robert Wamsley <[RobertWamsley@jackentertainment.com](mailto:RobertWamsley@jackentertainment.com)>; Sam Porter III <[samual.porter@icemiller.com](mailto:samual.porter@icemiller.com)>  
**Cc:** [chris.fleenor@casinocontrol.ohio.gov](mailto:chris.fleenor@casinocontrol.ohio.gov); [Craig.Donahue@casinocontrol.ohio.gov](mailto:Craig.Donahue@casinocontrol.ohio.gov); [Michelle.Siba@casinocontrol.ohio.gov](mailto:Michelle.Siba@casinocontrol.ohio.gov)  
**Subject:** Proposed Rule Changes: Ohio Adm. Code 3772-19

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Thank you all.

<image002.png>  
[William.Cox@casinocontrol.ohio.gov](mailto:William.Cox@casinocontrol.ohio.gov)

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