



MEETING AGENDA
MARCH 28, 2016

1. CALL TO ORDER AND ESTABLISHMENT OF QUORUM
2. CONSIDERATION OF MINUTES, MEETING OF FEBRUARY 29, 2016
3. REPORT OF EXECUTIVE DIRECTOR
4. RULEMAKING
 - A. PROPOSED CASINO RULEMAKING: ACCOUNTING CONTROLS
 - B. PROPOSED CASINO RULEMAKING: CONDUCT AND OPERATION OF GAMING
 - C. PROPOSED CASINO RULEMAKING: SURVEILLANCE
5. ADJUDICATIONS
 - A. IN THE MATTER OF JEROME PALUMBO
 - B. IN THE MATTER OF STOP AND SHOP DELI
6. OLD BUSINESS/NEW BUSINESS
7. SCHEDULING OF NEXT MEETING
8. ADJOURNMENT

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**NEW YORK STATE
GAMING COMMISSION**

MINUTES

MEETING of FEBRUARY 29, 2016

NEW YORK, NEW YORK

A meeting of the Commission was conducted in New York, New York.

1. Call to Order

Executive Director Robert Williams called the meeting to order at 1:08 p.m. Establishment of a quorum was noted by Acting Secretary Kristen Buckley. In attendance were Commissioners John Crotty, Peter Moschetti, John Poklemba, Barry Sample and Todd Snyder. Commissioner Moschetti was unanimously elected as presiding officer for the meeting.

2. Consideration of the Minutes from January 26, 2016

The Commission considered previously circulated draft minutes of the meeting conducted on January 26, 2016. The minutes were accepted as circulated.

3. Report of the Executive Director

Executive Director Williams provided a brief report on construction status of the three commercial casino licensees. Williams and Director of Education and Community Relations Carolyn Hapeman provided a presentation regarding National Problem Gambling Awareness Month and the Commission responsible gambling efforts.

4. Rulemaking

a. Adoption: SGC-52-15-00005-P, Lottery Subscription Program

The Commission considered adoption of proposed rules regarding the Lottery Subscription Program which updates the subscription program by allowing the use of newer technologies and addresses limitations imposed by older, outdated processes.

ON A MOTION BY: Commissioner Crotty
APPROVED: 5-0

b. Adoption: SGC-52-15-00006-P, Lottery Prize Payment

The Commission considered adoption of a proposed regulation in relation to Lottery Prize Payment which adds flexibility in the manner in which lottery prize payments are made, simplifies payments and affords alternative means of payment.

ON A MOTION BY: Commissioner Snyder
APPROVED: 5-0

c. Adoption: SGC-46-15-00007-P, Requirement of Specific Minimum Penalties for Certain Multiple Medication Violations

The Commission considered adoption of a rule to ban the use of stanozolol, discontinuing its permissive presence at threshold amounts.

ON A MOTION BY: Commissioner Sample
APPROVED: 5-0

d. Adoption: SGC-52-15-00008-P, Suspension and Revocation of a Lottery Agent's License

The Commission considered adoption of rules regarding the Suspension and Revocation of a Lottery Agent's License which requires an agent to achieve a certain level of sales or face suspension or revocation of its sales agent license.

ON A MOTION BY: Commissioner Snyder
APPROVED: 5-0

e. Adoption: SGC-01-16-00006-EP, Plan of Operation for the Jockey Injury Compensation Fund

The Commission considered adoption of proposed rules regarding the Plan of Operation for the Jockey Injury Compensation Fund. The rules create a standing structure for the imposition of a default subsequent-year assessment plan in the event the JICF fails to meet the statutory deadline for plan submission and approval.

ON A MOTION BY: Commissioner Poklemba
APPROVED: 5-0

f. Proposed: Problem Gaming Prevention and Outreach

The Commission considered proposing a rule prescribing the contents of a problem gambling plan that each gaming facility license applicant must submit for Commission approval.

ON A MOTION BY: Commissioner Snyder
APPROVED: 5-0

g. Proposed: Self-Exclusion

The Commission considered proposal of rules that sets forth a process by which a person can request to be excluded from participation in commercial casino gaming activities.

ON A MOTION BY: Commissioner Sample
APPROVED: 5-0

5. Adjudications

a. In the Matter of Joseph D'Agostino. The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had agreed, on a 5-0 vote, to sustain the Hearing Officer's recommendation upholding a \$500 fine following the licensee's failure to conduct himself in a forthright and gentlemanly manner and for conduct detrimental to the best interests of racing.

b. In the Matter of Beautyinthepulpit

The Commission announced the owner of Beautyinthepulpit withdrew his appeal of a stewards' ruling, thus mooted consideration of the matter.

6. Old Business/New Business

No old or new business was offered for discussion.

7. Scheduling of Next Meeting

It was announced that the next meeting date would be March 28, 2016.

8. Adjournment

The meeting was adjourned at 1:51 p.m.

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Gaming Commission

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www.gaming.ny.gov

John A. Crotty, Commissioner
Peter J. Moschetti, Jr., Commissioner
John J. Poklemba, Commissioner
Barry Sample, Commissioner
Todd R. Snyder, Commissioner

Robert Williams, Executive Director
Edmund C. Burns, General Counsel

To: Commissioners

From: Edmund C. Burns

Date: March 23, 2016

Re: Proposed Rulemaking for Casino Accounting Controls (9 NYCRR Part 5315)

For Commission consideration are proposed rules for gaming facility accounting controls. The proposed Part addresses the following topics: calculation of gross gaming revenue, use of promotional gaming credits, gross gaming revenue tax; maintenance of minimum gaming bankroll, unclaimed funds, internal audit requirements, financial statement audits, the retention, submission and review of accounting and financial records, and implementation of an anti-money laundering program.

Highlights of the proposal follow:

- Section 5315.1 sets forth the calculation of gross gaming revenue for slot machines, table games, poker games, progressive jackpots and tournaments.
- Section 5315.2 sets forth requirements for the use of promotional gaming credits.
- Section 5315.3 prescribes gross gaming revenue tax and the requirements in regard to transmitting such tax to the commission.
- Section 5315.4 sets forth requirements for a gaming facility to establish and maintain a daily gaming bankroll in an amount adequate to pay prizes to gaming patrons when due.
- Section 5315.5 sets forth the requirement that a gaming facility establish policies and procedures approved by the commission with respect to currency transaction reporting and specifies the type of advanced deposits that may be accepted from patrons.
- Section 5315.8 sets forth requirements for a gaming facility's retention and reporting of unclaimed funds.

- Section 5315.9 sets forth the requirements for a gaming facility licensee to establish an internal audit department and internal audit process.
- Section 5315.10 sets forth the requirements for a gaming facility to conduct an annual audit of financial statements and file such statements with the commission along with any information, letters and reports related thereto.
- Section 5315.11 sets forth the requirements for a gaming facility licensee to maintain and retain accounting and financial records.
- Section 5315.12 sets forth requirements for a gaming facility to maintain accounting records pertaining to gaming operations.
- Section 5315.13 sets forth requirements for a gaming facility to retain and store records in regard to its ownership.
- Section 5315.14 establishes that the commission may review and examine all records, procedures and methods relating to a gaming facility licensee's accounting.
- Section 5315.15 sets forth the requirement for an online monitoring and control system.
- Section 5315.16 sets forth the prohibition on altering or falsifying gaming documents.
- Section 5315.17 sets forth the requirements for the establishment of an anti-money laundering program consistent with the Federal Bank Secrecy Act.

A copy of the full text of the proposed Part 5315 is attached.

The proposed text was circulated to the three gaming facility licensees and the applicant currently being considered for licensure for their review and comments were incorporated into this proposal.

[REDACTED]

attachment

cc: Robert Williams, Executive Director
Chris Palmer, Deputy Director, Division of Gaming

Commissioners
March 23, 2016
Page 3

Heather McArn, Associate Counsel

Section 5300.1 of Title 9 of the NYCRR would be amended to read as follows:

§ 5300.1. Definitions.

(g) *Credit slip* means a form used to record either the return of chips from a gaming table to the cage or the transfer of markers or negotiable checks from a table game to a cage or bankroll.

(i) *Fill* means a transaction whereby a supply of chips or coins and tokens is transferred from a bankroll to a table.

Title 9 of the NYCRR would be amended to add new Part 5315, to read as follows:

Part 5315

Accounting Controls

Section	
5315.1	Gross gaming revenue
5315.2	Promotional gaming credits
5315.3	Gross gaming revenue tax
5315.4	Minimum bankroll
5315.5	[Reserved]
5315.6	[Reserved]
5315.7	[Reserved]
5315.8	Unclaimed funds
5315.9	Internal audit requirements
5315.10	Audited financial statements
5315.11	Accounting and financial records
5315.12	Submission of standard financial and statistical reports.
5315.13	Retention, storage of records
5315.14	Review, examination of records
5315.15	Online monitoring and control system
5315.16	Altering or falsifying gaming documents
5315.17	Anti-money laundering program

§ 5315.1. Gross gaming revenue.

(a) For slot machines, gross gaming revenue is total wagers minus promotional gaming credits and total payouts.

(b) In the event of a slot machine system malfunction, gross gaming revenue shall be calculated as total drop minus vouchers and coupons out, promotional gaming credits out and hand-pay payouts. Drop equals the total amount of cash, vouchers and the dollar amount of promotional gaming credits as set forth in section 5315.2 of this Part.

(c) For table games, gross gaming revenue is total drop plus ending table inventory and credit slips, minus promotional gaming credits, fills and beginning table inventory. Drop equals the total amount of cash, chips, markers and the dollar amount of promotional gaming credits as set forth in section 5315.2 of this Part. Table inventory is total coins and chips.

(d) For player-banked poker games, gross gaming revenue is the total amount of rake, which is a commission charged by the house from each pot for maintaining or dealing a game.

(e) For progressive jackpots, the gaming facility licensee shall submit for commission approval the calculation of gross gaming revenue and any offsetting factors.

(f) For all tournaments, gross gaming revenue shall include any entry fees and buy-ins exceeding the amount of prizes paid out per event. If the value of all prizes paid out exceeds the amount received in tournament fee revenue, a gaming facility licensee may not declare a loss against the gross gaming revenue.

(g) A gaming facility licensee shall not exclude from gross gaming revenue money paid out on wagers that are knowingly accepted by the licensee in violation of Article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law or this Subchapter.

(h) Any check cashed, transferred, conveyed or given in violation of Article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law shall be invalid and unenforceable for the purposes of collection, but all sums received from gaming operations less the total of all sums paid out as winnings shall be included in the calculation of gross gaming revenue.

§ 5315.2. Promotional gaming credits.

(a) *Promotional gaming credit* is a specified dollar amount that may be used by a player to play without paying any other consideration and includes, without limitation, the following, but does not include credits paid for by a gaming facility licensee, and thereby added to gross gaming revenue, and provided to a patron:

(1) Slot coupons are allowed to be redeemed for slot credits. Such coupon must have printed on it the name of the issuing gaming facility, the city or town in which the gaming facility is located, the value of such coupon and an expiration date or, alternatively, the dates such coupon is valid for redemption.

(2) Table game coupons are allowed to be redeemed for play. Such coupon must have printed on it the name of the issuing gaming facility, the city or town in which the gaming facility is located, the value of such coupon and an expiration date or, alternatively, the dates such coupon is valid for redemption.

(3) Match play coupons are allowed for wagering at table games. A patron's matching wager must equal or exceed the dollar value of the match play coupon. A

match play coupon must have printed on it the name of the issuing gaming facility, the city or town in which the gaming facility is located, the value of the coupon and an explanation of such coupon's use. Match play coupons are a wager and shall be paid the specified odds payout for the wager being made. Each coupon shall have an expiration date printed on such coupon.

(4) Notwithstanding the foregoing, electronic representations of coupons may be used provided that the records of issuance and redemption of such coupons are documented, retained, and audited according to this Part.

(b) Promotional gaming credits authorized for use by the gaming facility licensee in any State fiscal year shall be capped at 15 percent of gross gaming revenue derived from slot machines and five percent of gross gaming revenue derived from table games.

(c) A gaming facility licensee found to be in violation of subdivision (b) of this section may be fined for each day promotional gaming credits were issued beyond a maximum amount set forth in subdivision (b) of this section.

§ 5315.3. Gross gaming revenue tax.

(a) The tax, as prescribed in section 1351 of the Racing, Pari-Mutuel Wagering and Breeding Law, including any applicable interest and penalties, must be transmitted weekly by electronic funds transfer to the commission. All gross gaming taxes are the responsibility of, and must be paid by, the gaming facility licensee.

(b) All weekly gross gaming revenue tax reports filed with the commission must reflect all gross gaming revenue received by the gaming facility licensee for the period of the return.

(c) When the commission finds that the gaming facility licensee is required to pay additional taxes or finds that the gaming facility licensee is entitled to a refund of taxes, it shall report its findings, and the legal basis upon which the findings are made.

§ 5315.4. Minimum bankroll.

A gaming facility licensee shall assure the financial integrity of gaming operations by the maintenance of a gaming bankroll, or equivalent provisions, adequate to pay prizes to gaming patrons when due by maintaining, on a daily basis, a gaming bankroll, or equivalent provisions, in an amount at least equal to such facility's immediate cash requirement exposure for player prizes. To demonstrate such financial integrity, a gaming facility licensee shall maintain a minimum bankroll established through the use of the minimum bankroll verification worksheet provided by the commission to calculate and determine the minimum bankroll. Thirty days prior to the issuance of an operation certificate, each gaming facility licensee shall submit to the commission for review and, in the discretion of the commission, approval the minimum bankroll verification worksheet. Each gaming facility licensee shall continually review and evaluate daily bankroll requirements and notify the commission in writing if such licensee requests to

change the amount of the minimum bankroll. Such notification shall be provided to the commission at least 10 days prior to the implementation of a new funding level. Maintenance of a minimum bankroll is subject to audit or review by the commission.

§ 5315.5. [Reserved].

§ 5315.6. [Reserved].

§ 5315.7. [Reserved].

§ 5315.8. Unclaimed funds.

A gaming facility licensee shall retain unclaimed funds, cash and prizes for the period prescribed by Racing, Pari-Mutuel Wagering and Breeding Law section 1354. Unclaimed funds, cash and prizes shall be reported to the commission on the gross gaming revenue report during the week in which the funds, cash and prizes expire and shall be remitted to the commission with the gross gaming revenue for that week.

§ 5315.9. Internal audit requirements.

(a) A gaming facility licensee shall establish an internal audit department, which shall be supervised by a person referred to in this section as an *audit department executive*. The internal audit department shall be independent, as defined by the International Standards for the Professional Practice of Internal Auditing. The audit department executive shall be responsible for, without limitation, the following:

- (1) review and appraisal of the adequacy of internal control;
- (2) compliance with internal control procedures;
- (3) reporting to the commission of instances of noncompliance with the system of internal controls;
- (4) reporting to the commission of any material weaknesses in the system of internal controls; and
- (5) recommendation of procedures to eliminate any material weaknesses in the system of internal control.

(b) An internal audit department shall audit, at least annually, a gaming facility licensee's compliance with laws, rules, regulations and internal controls relating to:

- (1) the operation of table games and gaming devices;
- (2) cage and count-room operations;
- (3) the calculation of gross gaming revenue and taxes paid thereon;

- (4) the operation of the gaming facility's licensing program;
- (5) the operation of the gaming facility's player rewards program;
- (6) 31 CFR Part 1021; and
- (7) other requirements as specified by the commission.

(c) All audits conducted pursuant to subdivision (b) of this section shall be conducted according to professional internal auditing standards promulgated by the Institute of Internal Auditors.

(d) Notwithstanding subdivisions (a) through (c) of this section, a gaming facility licensee may, with written approval from the commission, engage an independent certified public accountant to provide internal audit services. Such independent certified public accountant may not provide both internal audit services and audit the gaming facility licensee's financial statements. The gaming facility licensee shall be responsible for the oversight and conduct of internal audit.

(e) The audit department executive, upon request by the commission, shall submit to the commission any report, work paper or other documents maintained by the internal audit department no later than 48 hours after such request.

(f) No later than 30 days after the start of a gaming licensee's fiscal year, the audit department executive shall file a report with the commission summarizing all audits performed by the audit department, including findings and management responses.

(g) No later than 15 days preceding the start of the gaming facility licensee's fiscal year, the audit department executive shall file such gaming facility's audit plan with the commission for the upcoming year.

§ 5315.10. Audited financial statements.

(a) A gaming facility licensee, unless specifically exempted by the commission in writing, shall, at its own expense, cause the annual financial statements of such licensee to be audited in accordance with generally accepted auditing standards by an independent certified public accountant licensed to practice in the State.

(b) The annual financial statements required by subdivision (a) of this Part shall be prepared on a comparative basis for a gaming facility licensee's current and prior standard financial year, and shall present financial position and results of operations in conformity with generally accepted accounting principles.

(c) The commission may require other financial information in a format prescribed by the commission to be included as supplementary information in relation to the audited financial statements as a whole. Such information shall be subjected to auditing

procedures as required by generally accepted auditing standards and include the independent auditors' report on such supplementary information.

(d) Two copies of the audited financial statements, together with the report thereon of a gaming facility licensee's independent certified public accountant, shall be filed with the commission no later than 120 days following the end of a gaming facility licensee's fiscal year.

(e) In addition to a gaming facility licensee's audited financial statements, each gaming facility licensee shall submit a copy of the management letter prepared by the independent certified public accountant that lists any internal control or operational weaknesses noted during the financial statement audit and recommendations for improvement. The gaming facility licensee shall prepare a response to the issues outlined in the management letter that describes any corrective actions taken or planned to be taken and include a copy of this response with its submission to the commission as required in subdivision (d) of this section.

(f) In addition to the management letter, the commission may require a gaming facility licensee to engage an independent certified public accountant approved by the commission to perform an additional review of internal controls, cause such licensee's business and managerial practices to be audited and review specified expenditures that conform to specifications the commission prescribes. The commission shall notify a gaming facility licensee of the type of report required, the scope of such report and the frequency with which such report should be performed. This review shall be performed at the expense of the gaming facility licensee unless the commission determines otherwise. A gaming facility licensee shall respond to recommendations in such report noting any corrective actions taken or planned to be taken. A gaming facility licensee shall submit to the commission two copies of such report, including the required response to the commission, within 120 days following the end of the period covered by such report, unless the commission instructs otherwise.

(g) If a gaming facility licensee or any of its affiliates is publicly held, such gaming facility licensee or the affiliate shall make available and provide written notice to the commission any report, including, without limitation, forms S-1, 8-K, 10-Q, 10-K, proxy or information statements and all registration statements, required to be filed by such licensee or affiliates with the United States Securities and Exchange Commission or other domestic or foreign securities regulatory agency, at the time of filing with the such agency.

(h) If an independent certified public accountant who was previously engaged as the principal accountant to audit a gaming facility licensee's financial statements resigns or is dismissed as such gaming facility licensee's principal accountant, or another independent certified public accountant is engaged as principal accountant, a gaming facility licensee shall file a report with the commission within 10 days following the end of the month in which such event occurs, setting forth the following:

(1) the date of such resignation, dismissal or engagement;

(2) whether in connection with the audits of the two most recent years preceding such resignation, dismissal or engagement there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements if not resolved to the satisfaction of the former accountant would have caused such accountant to make reference in connection with such accountant's report to the subject matter of disagreement, including a description of each such disagreement. The disagreements to be reported shall include those resolved and those not resolved;

(3) whether the principal accountant's report on the financial statements for any of the past two years contained an adverse opinion or disclaimer of opinion or was qualified. The nature of such adverse opinion, disclaimer of opinion or qualification shall be described; and

(4) the gaming facility licensee shall request the former accountant to furnish to the gaming facility licensee a letter addressed to the commission stating whether that accountant agrees with the statements made by the gaming facility licensee in response to subdivision (h) of this section. Such letter shall be filed with the commission as an exhibit to the report required by subdivision (h) of this section.

(i) The commission has the authority to conduct, or have conducted, an audit or review of any of a gaming facility licensee's financial controls and records.

§ 5315.11. Accounting and financial records.

(a) A gaming facility licensee shall maintain complete, accurate, legible and permanent records of all transactions pertaining to such licensee's revenues, expenses, assets, liabilities and equity in conformance with generally accepted accounting principles. The failure of a gaming facility licensee to maintain records according to such principles shall be a violation of this section.

(b) The accounting records maintained by the gaming facility licensee shall be maintained using a double entry system of accounting with transactions recorded on the accrual basis and supported by detailed subsidiary records. Such subsidiary records shall include, at a minimum, each of the following:

(1) detailed general ledger accounts identifying all revenue, expenses, assets, liabilities and equity for such gaming facility licensee;

(2) a record of all investments, advances, loans and accounts receivable balances due to such gaming facility licensee;

(3) a record of all loans and other accounts payable by such gaming facility licensee;

- (4) a record of all accounts receivable written off as uncollectible by such gaming facility licensee;
- (5) journal entries prepared by such gaming facility licensee;
- (6) records that identify drop and win for each gaming device and table game and records accumulated for each by shift or by another accounting period pre-approved in writing by the commission;
- (7) records supporting the accumulation of the costs for complimentary services and items, including records required to comply fully with all the Federal financial recordkeeping requirements set forth in 31 CFR Part 1021;
- (8) records required by such gaming facility licensee's system of internal controls;
- (9) work papers supporting the daily reconciliation of cash accountability; and
- (10) other records that the commission has required, in writing, to be maintained.

(c) Notwithstanding anything in this section to the contrary, each accounting records shall be kept for a period of not less than seven years from date of creation of such record.

§ 5315.12. Submission of standard financial and statistical reports.

A gaming facility licensee shall maintain, at such gaming facility or such location approved in writing by the commission, accurate and complete accounting records pertaining to gaming operations. Such records shall be maintained in accordance with generally accepted accounting principles. In connection with such records:

- (1) gaming facility licensees, unless specifically exempted by the commission, may be required to file interim reports of financial, statistical and informational data. The commission shall prescribe a set of standard reporting forms and instructions to be used by each gaming facility licensee in filing such reports;
- (2) each report required to be submitted to the commission by this Part shall be received by the filing date in electronic format or postmarked no later than the required filing date unless a gaming facility licensee requests an extension. Requests for an extension shall be submitted to the commission in writing prior to the required filing date; and
- (3) copies of all financial statements and statistical reports required to be filed by this Part shall be furnished by a gaming facility licensee with attestation from an authorized financial officer of such licensee.

§ 5315.13. Retention, storage of records

(a) In addition to other records and information required by this Part, each gaming facility licensee shall maintain and keep current the following records in regard to the equity structure and owners of such licensee:

(1) If a corporation:

(i) a certified copy of articles of incorporation and any amendments thereto;

(ii) a copy of by-laws and amendments thereto;

(iii) an incumbency list of officers and directors;

(iv) minutes of all meetings of stockholders and directors;

(v) a current list of all stockholders and stockholders of affiliates, including the names of beneficial owners of shares held in street or other name where any beneficial owner has a beneficial interest in two percent or more of the outstanding shares of any class, addresses and the number of shares held by each and the date acquired;

(vi) a complete record of all transfers of stock;

(vii) a record of amounts paid to the corporation for issuance of stock and other capital contributions and dates thereof;

(viii) a record, by stockholder, of all dividends distributed by the corporation; and

(ix) a record of all salaries, wages, and other remuneration (including prerequisites), direct and indirect, paid during the calendar or fiscal year, by the corporation, to all officers, directors, and stockholders with an ownership interest at any time during the calendar or fiscal year, equal to or greater than five percent of the outstanding capital stock of any class of stock.

(2) If a partnership:

(i) a schedule showing the amounts and dates of capital contributions, the names and addresses of the contributors and percentage of interest in net assets, profits, and losses held by each;

(ii) a record of the withdrawal of partnership funds or assets;

(iii) a record of salaries, wages and other remuneration (including prerequisites), direct and indirect, paid to each partner during the calendar or fiscal year; and

(iv) a copy of the partnership agreement and certificate of limited partnership, if applicable.

(3) If a sole proprietorship:

- (i) a schedule showing the name and address of the proprietor and the amount and date of such proprietor's original investment;
- (ii) a record of dates and amounts of subsequent additions to the original investment and withdrawals therefrom; and
- (iii) a record of salaries, wages and other remuneration (including prerequisites), direct or indirect, paid to the proprietor during the calendar or fiscal year.

(4) If a limited liability company:

- (i) a certified copy of the articles of organization;
- (ii) a certified copy of the operating agreement;
- (iii) a list of all current and former managers, including names and addresses;
- (iv) a list of the members, including names, addresses, the percentage of interest in net assets, profits and distributions of cash held or attributable to each, the amount and date of each capital contribution of each member, the date the interest was acquired and the method of determining a member's interest;
- (v) a schedule of all withdrawals of company funds or assets by members;
- (vi) a schedule of direct or indirect salaries, wages and other remuneration, including prerequisites, paid to each member during the calendar or fiscal year;
- (vii) a copy of the membership ledger or its electronic equivalent;
- (viii) a complete record of all transfers of membership interests; and
- (ix) a schedule of amounts paid to the company for the issuance of membership interests and other capital contributions and the dates the amounts were paid.

(b) All records in regard to ownership shall be located on the premises of a gaming facility, unless the commission allows a specific exemption to such gaming facility licensee.

(c) A gaming facility licensee or applicant shall, upon request by the commission, provide a list of all record holders of any or all classes of publicly traded securities issued by any holding company or by any other affiliated entity that is required to qualify as a financial source.

(d) A gaming facility licensee shall provide the commission, upon request, with the records required to be maintained as set forth in Article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law or this Subchapter. Each gaming facility licensee is

responsible for the acts and omissions of its agents, employees and contractors in complying with all obligations imposed by law, this Subchapter and internal control minimum procedures. Each gaming facility licensee shall retain all such records within the State of New York for at least seven years after such records are made and the related gaming tax return is filed. Records include, without limitation, formats as hard-copy documents, revenue system database, tables and fields structures of the database, meter files and electronic reports.

(e) Failure to keep and provide such records is an unsuitable method of operation and subject to a fine, penalty or revocation of license.

§ 5315.14. Review, examination of records.

The commission or the commission's designee may:

- (1) conduct periodic examinations of the accounting and financial records of gaming facility licensees;
- (2) review the accounting principles and procedures used by gaming facility licensees;
- (3) review and observe methods and procedures used by gaming facility licensees to count and handle cash, chips, tokens, gaming coupons, tickets, gaming wagers, gaming payments and negotiable instruments;
- (4) examine accounting and financial records of the gaming facility licensee or a person controlling, controlled by or under common control with the gaming facility licensee, within a gaming facility licensee's establishment or gaming facility licensee's other establishments located in New York, or other locations as agreed to with the gaming facility licensee;
- (5) request the gaming facility licensee to file copies of tax returns, tax records and tax adjustments with the commission; and
- (6) obtain copies from the gaming facility licensee of outstanding deposited check instruments, checks returned and held, collection activities taken and settlement of disputed items.

§ 5315.15. Online monitoring and control system.

A gaming facility licensee shall have an online monitoring and control system connected to each slot machine in such gaming facility to record and monitor such slot machine's activities. The system shall be accessible by the commission or the commission's designee.

§ 5315.16. Altering or falsifying gaming documents.

Any person who alters or falsifies information recorded on gaming documents, at the time of the transaction or after the fact, for the purpose of concealment, deception or circumvention of internal control minimum procedures, or for any other purpose, may be subject to a fine, penalty or revocation of license by the commission.

§ 5315.17. Anti-money laundering program.

(a) Consistent with the requirements of the Federal Bank Secrecy Act, (31 U.S.C. 5311, et seq) and 31 CFR Part 1021, a gaming facility licensee is defined as a *financial institution* and shall comply with Federal law pertaining to reportable currency transactions and transactions that are believed to be suspicious. To accomplish these objectives, a gaming facility licensee shall, at a minimum:

- (1) establish a system of internal policies, procedures and controls tailored to assure ongoing compliance;
- (2) employ an anti-money laundering compliance officer and file the name of such officer with the commission;
- (3) conduct an internal and/or external independent audit to test for compliance and provide copies to the commission;
- (4) train licensed personnel in reportable currency transactions and identifying unusual or suspicious transactions;
- (5) assign an individual or group of individuals to be responsible for day-to-day compliance; and
- (6) employ the use of automated programs to aid in assuring compliance when automated processing systems are in use.

(b) In connection with implementing subdivision (a) of this section, a gaming facility licensee shall:

- (1) assess anti-money-laundering-related risks present within its business, considering, among other things, gaming volume and character, range of financial services offered, characteristics of certain games, patron behaviors and patron characteristics;
- (2) vest the individual or group of individuals responsible for anti-money-laundering compliance with appropriate authority and resources to implement the program and assist the gaming facility in managing risk;
- (3) extend training to employees who have direct interaction with patrons or who handle or review patron transactions subject to the Bank Secrecy Act, including

(i) those engaged in the operation of gaming facility games (at least beginning with supervisors and above);

(ii) gaming facility marketing employees (including domestic and international hosts, branch office employees and special events employees);

(iii) cage employees;

(iv) surveillance employees;

(v) audit employees; and

(vi) senior management;

(4) identify customers and customer play that potentially possess the greatest risk of money laundering, including, among other things, requiring patrons to provide full name, permanent address, social security number and a valid, current government-issued photo identification. For a high-volume patron whose activity exceeds a certain level, undertaking a review of such patron's identity and source of funds against public records and third-party databases;

(5) file currency transaction reports with the appropriate Federal agency when a patron either provides to such gaming facility or takes away from such gaming facility, more than \$10,000 in currency during such gaming facility's 24-hour gaming day.

(6) file suspicious activity reports with the appropriate Federal agency when a gaming facility knows, suspects or has reason to suspect that a transaction aggregating at least \$5,000

(i) involves funds derived from illegal activity;

(ii) is intended to disguise funds or assets derived from illegal activity;

(iii) is designed to avoid Bank Secrecy Act reporting or recordkeeping requirements;

(iv) uses the gaming facility to facilitate criminal activity;

(v) has no business or apparent lawful purpose; or

(vi) is not the sort of transaction in which the particular patron would be expected to engage and such gaming facility knows of no reasonable explanation for the transaction after examining the available facts; and

(7) adopt a recordkeeping system to preserve for each patron, subject to due diligence procedures,

- (i) a record of those specific procedures performed to analyze a patron's gaming patterns and financial transactions;
- (ii) any due diligence report created;
- (iii) any risk determination; and
- (iv) any action taken as a result, including monitoring of patron, reports to law enforcement agencies or changes in gaming facility services available to such patron.

Such records shall be maintained for at least five years after the relationship is terminated.



Gaming Commission

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Todd R. Snyder, Commissioner

Robert Williams, Executive Director
Edmund C. Burns, General Counsel

To: Commissioners

From: Edmund C. Burns

Date: March 22, 2016

Re: Proposed Rulemaking for the Conduct and Operation of Gaming (9 NYCRR Part 5313)

For Commission consideration are proposed rules for the conduct and operation of gaming. The proposed Part addresses the following topics: a gaming facility licensee's submission of a system of administrative and accounting procedures for the conduct and operation of gaming; requirements for hours of operation, minimum age participation and access; retention of realty, construction, maintenance and business records; submission of a gaming facility licensee's emergency action plan; requirements for the award of an operation certificate to commence gaming operations; procedures and requirements for key control, facial recognition, and license plate recognition; and limitations on certain financial transactions.

Highlights of the proposal follow:

- Section 5313.1 sets forth the requirements for the internal control system a gaming facility licensee submits to the Commission for approval.
- Section 5313.2 establishes the minimum age a patron must be to participate in gaming activities and the penalties associated with a gaming facility licensee's violation of such requirements.
- Section 5313.3 sets forth the procedure for the alteration or change of gaming facility hours of operation.
- Section 5313.4 cites to the federal statutory requirements for facility access to a public accommodation.
- Section 5313.5 sets forth the requirements for access to restricted areas of a gaming facility and an access badge and credential system a gaming facility licensee must adopt.

- Section 5313.6 provides that a gaming facility licensee retain realty, construction, maintenance and business records for Commission review.
- Section 5313.7 sets forth the requirement that a gaming facility licensee submit an emergency action plan to the Commission
- Section 5313.8 establishes criteria for awarding a gaming facility licensee an operation certificate to commence gaming operations. .
- Section 5313.9 sets forth restrictions on the possession of firearms within a gaming facility.
- Section 5313.10 sets forth requirements for the retention, storage and destruction of books, records and documents pertaining to the operation of the gaming facility licensee.
- Section 5313.11 sets forth control and maintenance requirements for sensitive keys.
- Section 5313.12 and 5313.13 set forth requirements for the installation of facial and license plate recognition equipment.
- Section 5313.14 sets forth limitations on certain financial access.

A copy of the full text of the proposed Part 5313 is attached.

The proposed text was circulated to the three gaming facility licensees and the applicant currently being considered for licensure for their review and comments were incorporated into this proposal.

[REDACTED]

attachment

cc: Robert Williams, Executive Director
Chris Palmer, Deputy Director, Division of Gaming
Heather McArn, Associate Counsel

Part 5313

Conduct and Operation of Gaming

Section	
5313.1	System of internal control
5313.2	Age for gaming participation; signage; responsibilities
5313.3	Hours of operation
5313.4	Facility accessibility
5313.5	Access badges and temporary access credentials
5313.6	Licensee leases and contracts
5313.7	Emergency procedures
5313.8	Operation certificate
5313.9	Firearms
5313.10	Retention, storage and destruction of books, records and documents
5313.11	Key control
5313.12	Facial recognition
5313.13	License plate recognition
5313.14	Limitation on certain financial access

§ 5313.1. System of internal control.

(a) Consistent with Racing, Pari-Mutuel Wagering and Breeding Law section 1334, a gaming facility licensee shall submit to the commission a written description of its initial system of administrative and accounting procedures, including its internal control systems and audit protocols, at least 60 days prior to the projected date of issuance of an operation certificate unless otherwise approved in writing by the commission. A written system of internal controls shall include, without limitation:

- (1) organization charts depicting segregation of functions and responsibilities;
- (2) a description of the duties and responsibilities of each position shown on the organization charts and the respective lines of authority for each;
- (3) a detailed narrative description of the administrative and accounting procedures designed to satisfy the requirements of this Part;
- (4) a record retention policy relating to retention, storage and destruction of books, records and documents, as required by section 5313.10 of this Part;
- (5) procedures to ensure that assets are safeguarded and counted in conformance with count procedures as set forth in this Subchapter;
- (6) procedures governing the conduct of all gaming-related promotions to be offered;

- (7) procedures to ensure that the gaming facility licensee's employees comply with licensing or registration requirements;
- (8) other items the commission may request in writing to be included in such gaming facility's internal controls;
- (9) administrative controls that include the procedures and records that relate to the decision-making processes leading to management's authorization of transactions;
- (10) accounting controls that safeguard assets and revenues and ensure the reliability of financial records. Such accounting controls must be designed to provide reasonable assurance that:
 - (i) transactions or financial events that occur in the operation of a slot machine or table game are executed in accordance with management's general and specific authorization;
 - (ii) transactions or financial events that occur in the operation of a slot machine or table game are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles in the United States, the act and this Subchapter;
 - (iii) transactions or financial events that occur in the operation of gaming are recorded in a manner that provides reliable records, accounts and reports, including the recording of cash and evidences of indebtedness, for use in the preparation of reports to the commission;
 - (iv) transactions or financial events that occur in the operation of gaming are recorded to ensure accountability for assets and to permit the proper and timely reporting of gaming revenue, fees and taxes;
 - (v) access to assets is permitted only in accordance with management's general and specific authorization; and
 - (vi) the recorded accountability for assets is compared with existing physical assets at reasonable intervals and that appropriate action is taken with respect to any discrepancies;
- (11) procedures and controls for ensuring that each slot machine and electronic table game directly provides and communicates all required activities and financial details to the online monitoring and accounting system;
- (12) procedures and controls for ensuring that all functions, duties and responsibilities are segregated and performed in accordance with sound financial practices by qualified personnel; and

(13) procedures and controls for ensuring, through the use of surveillance and security departments, that the gaming facility is secure during normal operations and during any emergencies due to malfunctioning equipment, loss of power, natural disaster or any other cause.

(b) An internal control systems submission shall be accompanied by an attestation by the gaming facility's chief executive officer or other delegated person with a direct reporting relationship to the chief executive officer attesting that the signatory believes, in good faith, that the submitted internal controls:

(1) conform to the requirements of the act and this Subchapter; and

(2) are designed to provide reasonable assurance that the financial reporting conforms to generally accepted accounting principles in the United States and complies with applicable laws and regulations, including the act and this Subchapter.

(c) An initial internal controls submission also shall be accompanied by a report from an independent certified public accounting firm that is in good standing with the New York State board for accountancy or with the state board for accountancy where such firm is licensed. Such report should express an opinion as to the suitability of the design of the submitted system of internal controls over financial reporting in accordance with the requirements of subdivision (a) of this section.

(d) The commission will review each initial submission made under subdivision (a) of this section and determine whether such submission conforms to the requirements of the act and this Subchapter and provides adequate and effective controls to ensure the integrity of the operation of gaming at a gaming facility. If the commission determines that the submission is deficient in any area, the commission will provide written notice of the deficiency to the gaming facility licensee and allow the gaming facility licensee to submit a revision to such submission.

(e) A gaming facility licensee shall submit to the commission any proposed amendment to such licensee's approved system of internal controls. Such gaming facility licensee may implement such proposed amendment on the 30th calendar day following the filing of a complete submission, unless the commission rejects such proposed amendment in writing or tolls such 30-day period pursuant of subdivision (f) of this section.

(f) If, during a 30-day review period set forth in subdivision (e) or subdivision (g) of this section, the commission preliminarily determines that a procedure or omission in a submission is likely to affect negatively the integrity of gaming operations or the control of revenue, the commission shall, by written notice to the gaming facility licensee:

(1) specify the nature of the commission's objection and, when possible, suggest an acceptable alternative procedure; and

(2) direct that the 30-calendar-day review period set forth in subdivision (e) of this section be tolled and that any proposed internal control amendments not be implemented until approved pursuant to subdivision (g) of this section.

(g) When the commission tolls a proposed amendment pursuant to subdivision (f) of this section, the gaming facility licensee may submit a revised amendment within 30 days of receipt of the written notice from the commission. Such gaming facility licensee may implement a revised amendment upon receipt of written notice of approval from the commission or on the 30th calendar day following the filing of the revision, unless such the commission rejects such proposed amendment in writing or tolls such 30-day period pursuant of subdivision (f) of this section.

(h) Each gaming facility licensee shall maintain a current version of such gaming facility licensee's internal controls in electronic form available through secure computer access to the accounting and surveillance departments of such gaming facility licensee and to commission staff at such gaming facility. Each page of such internal controls document shall indicate the date on which the commission approved such page. Each gaming facility licensee also shall maintain, for a minimum of five years, a copy, either in paper or electronic form, of

- (1) any superseded internal control procedures; and
- (2) the original, signed attestation required by subdivision (b) of this section.

§ 5313.2. Age for gaming participation; signage; responsibilities.

(a) To effectuate compliance with Racing, Pari-Mutuel Wagering and Breeding Law section 1332(1), each gaming facility licensee shall post appropriate security personnel at any location in the facility that allows access to the gaming floor.

(b) A gaming facility licensee shall post signs that include a statement that is similar to the following: "It is unlawful for any individual under 21 years of age to enter or remain in any area where gaming is conducted. It is unlawful for any individual under 21 years of age to wager, play or attempt to play a slot machine or table game. Individuals violating this prohibition will be removed and may be subject to arrest and criminal prosecution." Such signs shall be posted prominently at each entrance and exit of the gaming floor.

(c) A gaming facility licensee shall identify and remove any person who is under 21 years of age and not otherwise authorized by law to be on the gaming floor and immediately notify onsite commission staff when a person under 21 years of age is discovered on the gaming floor, in areas off the gaming floor where gaming activity is conducted or engaging in gaming-related activities.

(d) A gaming facility licensee shall not allow or permit any person who is under 21 years of age to:

- (1) participate as a player at any game in such gaming facility;

(2) receive any complimentary services or items as a result of, or in anticipation of, such individual's gaming activity;

(3) be present on the gaming floor without the escort of a licensed gaming facility employee and for longer than necessary to reach a destination that is not on the gaming floor; or

(4) make any wager at any such gaming facility.

(e) The commission shall penalize a gaming facility licensee found to have violated paragraph (3) of subdivision (d) of this section as follows:

(1) for a first violation, a fine of \$1,000;

(2) for a second violation within one year of a violation, a fine of \$5,000;

(3) for a third violation within one year of a violation, a fine of \$10,000; and

(4) for a fourth violation or subsequent violation within one year of a violation, a fine of \$25,000 and such further action as the commission may deem appropriate, which may include without limitation the suspension or revocation of the occupational license of any key employee found to be responsible for the violation.

(f) The commission shall penalize a gaming facility licensee found to have violated paragraph (4) of subdivision (d) of this section as follows:

(1) for a first violation, a fine of \$5,000;

(2) for a second violation within one year of a violation, a fine of \$20,000;

(3) for a third violation within one year of a violation, a fine of \$25,000; and

(4) for a fourth violation or subsequent violation within one year of a violation, a fine of \$25,000 and such further action as the commission may deem appropriate, which may include without limitation the suspension or revocation of the occupational license of any key employee found to be responsible for the violation.

(g) A gaming facility licensee shall implement procedures that ensure that persons less than 21 years of age do not receive junket solicitations, targeted mailing, telemarketing promotions, player club membership materials or other promotional materials relating to gaming activities.

§ 5313.3. Hours of operation.

(a) A change in scheduled hours of operation of a gaming facility means a change in scheduled hours effected pursuant to the requirements of Racing, Pari-Mutuel Wagering and Breeding Law section 1333(2).

(b) An alteration in scheduled hours of operation of a gaming facility means a temporary deviation from established hours of operation, as contemplated by Racing, Pari-Mutuel Wagering and Breeding Law section 1333(3). A gaming facility licensee proposing an alteration of scheduled hours of operation must do so in writing to the commission at least 30 days prior to the effective date of the proposed alteration, and no such alteration shall be permitted absent prior approval by the commission; provided, however, that the commission may shorten or waive the prior notice and prior approval requirements if extraordinary circumstances exist, in the judgment of the commission.

(c) If a gaming facility is required to close during normal business hours due to an emergency, such facility shall notify the commission as soon as practicable.

§ 5313.4. Facility accessibility.

(a) Consistent with the requirements of Title III of the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12181-12189) and regulations promulgated thereunder (referred to in this section, collectively, as the ADA), each gaming facility licensee that is a public accommodation as defined in the ADA shall comply with Federal law pertaining to ensuring that individuals with disabilities are provided an equal opportunity to participate in or benefit from such licensee's goods and services. To accomplish these objectives, such gaming facility licensee's internal control system shall ensure ongoing ADA compliance, including, at a minimum:

(1) designation of or hiring an ADA compliance officer who, within 90 days of designation or hire, shall undergo training, at such gaming facility licensee's expense, in regard to the requirements of Title III of the ADA. The ADA compliance officer shall be responsible for handling, among other things, any disability-related complaints from patrons and guests of the gaming facility;

(2) training of all first-line supervisors and managers, within 90 days of hire, on Title III of the ADA as such law applies to a gaming facility and on the obligations to ensure that all guests with disabilities are afforded an equal opportunity to participate in the services, facilities and activities offered at the gaming facility; and

(3) development of an ADA-complaint resolution policy to address ADA-related complaints by patrons and guests of such gaming facility and provide a copy of such policy to the commission for review and input. Such policy shall identify the ADA compliance officer and the process by which complaints will be investigated and resolved. Such gaming facility licensee shall implement such policy within 60 days of receiving and implementing the commission's comments.

(b) Each gaming facility licensee shall report annually to the commission in regard to such licensee's ADA practices, including any complaints received and their resolution, any policies adopted and any training of employees that occurred (by date and the content of training). The commission may order such corrective or remedial action as

the commission may deem necessary or advisable for a gaming facility licensee to undertake.

(c) The facility licensee shall also provide to the commission annually any research, proposed practices or practices implemented with regard to accommodations for disabled persons gaming within the facility.

§ 5313.5. Access badges and temporary access credentials.

(a) A gaming facility licensee shall develop an access control matrix indicating the restricted areas in a licensed facility to which each employee, and each employee of a vendor or any other authorized person has access in accordance with such person's job description. Access to restricted areas by a gaming facility employee or vendor employee shall be limited to the restricted areas to which such employee needs access in the course of the performance of such employee's normal duties listed in such employee's job description.

(b) A gaming facility licensee shall adopt an access badge system consisting of a badge that contains an employee's name, picture and identifying code that indicates such employee's title and/or job function.

(c) A gaming facility licensee shall prepare and maintain internal control procedures for:

(1) issuance of access badges for employees, vendor employees and other non-employees permitted to have access to one or more restricted areas and issuance of replacement of access badges when a badge is misplaced, stolen, forgotten, damaged, not functioning or obsolete;

(2) issuance of temporary identification credentials to employees, vendor employees and other non-employees; and

(3) collection of such access badges or credentials when an employee, vendor employee or other non-employee has been suspended or discharged or when an employee's employment has been terminated.

(4).

(d) Each gaming facility employee shall be required to wear an access badge in a location visible to guests, surveillance cameras and security personnel at all times while working in a gaming facility.

(e) A complete listing of badge records, including without limitation the name of each badge recipient, employment position, badge number and assigned employment and access level shall be provided to the commission or the commission's designees prior to the issuance of a gaming facility's operation certificate. All additions, deletions and changes to such initial listing shall be provided to the commission or the commission's designees at a frequency that the commission may direct.

(f) Commission employees or designees shall have immediate, unfettered access to restricted areas during the performance of their respective duties and responsibilities.

§ 5313.6. Licensee leases and contracts.

(a) Consistent with Racing, Pari-Mutuel Wagering and Breeding Law section 1341, each gaming facility applicant or licensee shall maintain a record of each written or unwritten agreement in regard to the realty, construction, maintenance or business of a proposed or existing gaming facility or related facility, without regard to whether such gaming facility applicant or licensee is a party to such agreement.

(b) The commission may review any agreement described in subdivision (a) of this section on the basis of the reasonableness of its terms, including the terms of compensation, and of the qualifications of the owners, officers, employees and directors of any enterprise involved in the agreement.

(c) If the commission disapproves of such an agreement or of the owners, officers, employees or directors of any enterprise involved in such agreement, the commission may require termination of such agreement.

§ 5313.7. Emergency procedures.

(a) A gaming facility licensee shall submit to the commission, the New York State Police, local police department and the local fire department, no less than 90 days before the issuance of an operation certificate, an emergency action plan for the response to, and management of, fire, medical emergencies, loss of power, critical system and/or equipment failures, including without limitation surveillance and accounting, and natural disasters in all areas of the gaming facility and ancillary developments.

(b) Such plan shall include procedures for notification of the New York State Police, local police department, the local fire department or emergency medical personnel, and procedures for expedited and unimpeded access of the personnel into all areas of the gaming facility or ancillary developments in the event of a fire, medical or other emergency.

(c) Such plan shall also include a proposed inspection schedule allowing the New York State Police, local police department and local fire department personnel to inspect all areas of the gaming facility and ancillary developments for compliance with applicable fire and emergency laws, codes and ordinances.

§ 5313.8. Operation certificate.

(a) A gaming facility licensee may not open a gaming facility for business or begin gaming operations until the commission has issued a valid operation certificate in accordance with the requirements of Racing, Pari-Mutuel Wagering and Breeding Law section 1331.

(b) To obtain an operation certificate, each gaming facility shall establish to the satisfaction of the commission that the:

- (1) gaming facility complies in all respects with the applicable requirements of the act and this Subchapter;
- (2) gaming licensee has implemented necessary internal control procedures for the safe and efficient operation of the gaming facility;
- (3) gaming facility has complied with the licensing provisions of this Subchapter;
- (4) commission has been provided proof that all employees are licensed or registered for the performance of their respective responsibilities;
- (5) gaming facility is prepared in all respects to receive and entertain the public;
- (6) gaming facility meets or exceeds State and local fire and safety standards; and
- (7) gaming facility has provided payroll records that establish to the satisfaction of the commission that it has complied with the requirements of the act, if applicable. Such payroll records shall be accompanied by an attestation by the gaming facility's chief executive officer or other delegated person as to their accuracy.

(c) Subject to the commission's authority to revoke, suspend, limit or otherwise alter an operation certificate, each such certificate, once issued, shall remain in full force and effect for so long as the licensee holding such certificate remains licensed, under such terms and conditions as the commission may impose. Such operation certificate shall not be altered, modified or amended except in accordance with the act and this Subchapter.

(d) The continued effectiveness of each operation certificate shall be a prerequisite for the gaming facility to which such certificate applies to remain open to the public for the operation of gaming.

(e) Each gaming facility licensee to which an operation certificate is issued shall operate such licensee's gaming facility strictly in accordance with the terms of such licensee's original operation certificate and the approved gaming floor layout submitted in support thereof, and shall not change any of the items to which the operation certificate applies, except in accordance with the act and this Subchapter and after obtaining any required amendments to such operation certificate. Nothing in this subdivision shall prevent a gaming facility licensee from moving or reconfiguring gaming devices within the approved gaming floor layout provided the commission is notified of such change in writing at least five business days in advance of implementation and that such change is in compliance with State building code and this Subchapter.

(f) Whenever a gaming facility licensee proposes a physical change to such licensee's gaming facility or to a restricted area that requires commission approval in order for

such licensee's original operation certificate, or any approved amendments to such operation certificate, to continue in force and effect, such gaming facility licensee must submit an application for amended operation certificate, the form of which the commission shall provide to the applicant upon request. Such application shall include, without limitation, the following:

(1) a revised gaming floor layout reflecting the proposed change, in which the revised plan shall be submitted in a format approved in writing by the commission and filed with such application; and

(2) a statement from an architect or other suitable professional licensed to practice in the State of New York certifying that the proposed change as presented will be in compliance with State building code and this Subchapter.

(g) The commission shall review any proposed change for compliance with the act and this Subchapter and shall issue a determination and, if approved, notice to proceed, within a reasonable time after receipt of the application for amended operation certificate.

(h) Upon receipt of the notice to proceed, the gaming facility licensee shall complete the changes outlined in the application for amended operation certificate and notify the commission in writing within five days of final completion of any proposed change. A gaming floor layout that depicts the actual changes made shall accompany the notice of final completion and be filed with the commission. Each such gaming floor layout shall depict the change and shall include updates, based on the actual changes made, for each item required to be included in the application for amended operation certificate pursuant to subdivision (f) of this section and described in the notice to proceed; provided, however, that a floor plan of the entire gaming facility that depicts all changes proposed in the application for amended operation certificate and any amendment thereto shall accompany the notice of final completion.

(i) Promptly after the filing of a notice of final completion pursuant to subdivision (h) of this section, the commission shall inspect the physical changes actually made to the gaming facility to ensure that such changes conform to the gaming floor layout accompanying the notice of final completion and the description previously submitted to the commission, as modified by any properly filed amendments thereto. Following such inspection, the commission shall notify the gaming facility licensee in writing as to which physical change is approved and which is rejected, whereupon:

(1) the gaming facility licensee, in the event any change is rejected, shall either:

(i) correct any rejected change to conform with the floor plan accompanying the notice of final completion and the description previously submitted to the commission, as modified by any properly filed amendments thereto, which correction shall be completed and inspected pursuant to this section;

(ii) submit for approval, pursuant to subdivision (f) of this section, a new application for amended operation certificate; or

(iii) take such other action as the commission may direct to ensure that the currently approved gaming floor layout accurately depicts the physical layout of the gaming facility, including any restricted areas; and

(2) the operation certificate shall be amended to conform to each inspected and approved physical change.

(j) An operation certificate shall be revoked, suspended or limited by the commission if the commission initiates disciplinary action against the gaming facility licensee and determines that the gaming facility licensee is in violation of the act or this Subchapter or that the commission's action is in the best interests of the State and reasonably necessary and appropriate to protect and enhance the credibility and integrity of commercial gaming operations in this State.

§ 5313.9. Firearms.

(a) No person shall possess, or be permitted to possess, any firearm within a gaming facility without the prior express written consent of the commission, except any on-duty officer or agent of any local, State or Federal law enforcement agency, when such officer or agent is acting in an official capacity.

(b) The gaming facility licensee shall post in a conspicuous location at every entrance to the gaming facility a sign stating: "No Person Shall Possess Any Firearm Within This Facility."

§ 5313.10. Retention, storage and destruction of books, records and documents.

(a) For the purposes of this section, *books, records and documents* means any book, record or document pertaining to, prepared in or generated by the operation of a gaming facility licensee, including all forms, reports, accounting records, ledgers, subsidiary records, computer-generated data, internal audit records, correspondence and personnel records required to be generated and maintained (excluding physical tickets generated by slot machines so long as an electronic record of each ticket printed is maintained within the slot management system). This definition applies without regard to the medium through which the record is generated or maintained (e.g., paper, magnetic media or encoded disk).

(b) Original books, records and documents pertaining to the operation of a gaming facility licensee shall be:

(1) prepared and maintained in a complete, accurate and legible form. Electronic data shall be stored in a format that ensures readability, without regard to whether the technology or software that created or maintained such data has become obsolete;

(2) retained in a secure location in the gaming facility that is equipped with a fire suppression system or at another location approved pursuant to subdivision (d) of this section;

(3) made available for inspection by the commission and the commission's designees during all hours of operation;

(4) organized and indexed in a manner to provide immediate accessibility to the commission and the commission's designees; and

(5) destroyed only after expiration of the minimum retention period specified in subdivision (c), except that the commission may, upon the written request of a gaming facility licensee and for good cause shown, permit destruction at an earlier date.

(c) Unless otherwise authorized by statute or this Subchapter, all original books, records and documents shall be retained in accordance with a retention schedule annually issued by the commission. Nothing herein shall be construed as relieving a gaming facility licensee from meeting any obligation to maintain any book, record, or document required by any other Federal, state or local; governmental body authority, or agency.

(d) The commission may approve, upon the written request of a gaming facility licensee, a location outside the gaming facility to store original books, records and documents. Such request shall include the following:

(1) a detailed description of the proposed location, including security and fire suppression systems; and

(2) the procedures under which the commission and the commission's designees will be able to gain access to the retained original books, records and documents.

(e) The commission may approve, upon the written request of a gaming facility licensee a microfilm, microfiche or other suitable media system for the copying and storage of original books, records and documents. Such request shall include representations in regard to the:

(1) processing, preservation and maintenance methods that will be employed to ensure that the books, records and documents are available in a format that makes such material readily available for review and copying;

(2) inspection and quality control methods that will be employed to ensure that microfilm, microfiche or other media, when displayed on a reader or viewer or reproduced on paper, exhibits a high degree of legibility and readability;

(3) availability of a reader or printer for use by the commission and the commission's designee at such licensed facility or other location approved by the commission and

the readiness with which the books, records or documents being stored on microfilm, microfiche or other media can be located, read and reproduced; and

(4) availability of a detailed index of all microformed or other stored data maintained and arranged in a manner to permit the immediate location of any particular book, record or document.

§ 5313.11. Key control.

(a) Any key that is considered sensitive and is required to be controlled and maintained and any corresponding locking device shall be approved by the commission. Such keys shall be legally duplicated only by the manufacturer, or the manufacturer's designee, and shall be capable of unlocking the locking device on no more than one type of secure box, compartment or location used or maintained within the gaming facility. Nothing in this subdivision shall preclude the commission from exempting a type of secure box, compartment or location from the requirements of this subdivision upon a determination that the security of such box, compartment or location would not otherwise be compromised.

(b) As approved by the commission, sensitive keys shall include, without limitation, the following:

(1) table drop box contents keys;

(2) table drop box release keys;

(3) table drop box trolley keys;

(4) slot machine keys;

(5) count room entrance keys;

(6) locations housing a computer that controls a progressive payout wager system for table games offering a progressive payout wager;

(7) storage cabinets or trolleys for unattached table drop boxes;

(8) float keys; and

(9) pit podium keys.

(c) A gaming facility licensee shall establish key control procedures for any sensitive key as approved by the commission. Such procedures shall provide for, at a minimum, the following:

(1) the maintenance of perpetual inventory records and the physical inventory of all sensitive keys by an independent department;

(2) the requisitioning of keys and locking devices from vendors; and

(3) the security and restrictions that control access to keys, whether manually or through an electronic system, and records and reports generated or prepared.

§ 5313.12. Facial recognition.

The commission may require a gaming facility licensee to install security and surveillance equipment where any chips, tokens, tickets, electronic cards or similar objects can be redeemed for cash, whether by a gaming employee or by electronic means, that must capture, for law enforcement purposes, facial feature pattern characteristics, including a computerized facial image. Such system must be able to compare a photograph or image of one or more persons to live or recorded video in order to determine if such person is or has been in the facility.

§ 5313.13. License plate recognition.

The commission may require a gaming facility licensee to install security and surveillance equipment in garages and parking lots to capture a vehicle license plate. Such system must be able to include the time, color image and the vehicle's license plate number.

§ 5313.14. Limitation on certain financial access.

(a) Automated teller machines shall be prohibited from accepting electronic benefit cards, debit cards or similar negotiable instruments issued by the State or political subdivisions of the State for the purpose of accessing temporary public assistance, as required by Racing, Pari-Mutuel Wagering and Breeding Law section 1338(2).

(b) An automated teller machine shall have a label on the top and front that displays a unique identification number. Each such label shall have a color combination approved by the commission that is easily visible to the gaming facility's surveillance department and that may not be easily removed. The label on the top of each automated teller machine shall be at least 1½ inches by 5½ inches and the label on the front of each automated teller machine shall be at least 1 inch by 2½ inches.

(c) A gaming facility may use an automated teller machine that also contains an automated gaming voucher redemption machine, an automated coupon redemption machine or bill breaker, provided that such machine complies with the requirements in regard to such gaming facility's automated gaming voucher and coupon redemption machine accounting controls.

(d) The use of credit cards, debit cards, similar devices and instruments described in subdivision (a) of this section are prohibited in slot machines or at table games, as required by Racing, Pari-Mutuel Wagering and Breeding Law section 1338(3).

(e) The proximity of an automated teller machine to a slot machine or table game that is on a gaming floor is subject to the following limitations:

(1) no automated teller machine may be placed closer than five feet to a slot machine or table game; and

(2) there may be no more than one automated teller machine for every 100 slot machines and table game seats.

(f) Exclusive of transaction fees or surcharges, the maximum amount that a player may withdraw from an account by using an automated teller machine located on a gaming floor shall be no more than \$3,500 per calendar day.

(g) No gaming facility is permitted to cash a paycheck from a patron, as required by Racing, Pari-Mutuel Wagering and Breeding Law section 1338(4).



Gaming Commission

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Robert Williams, Executive Director
Edmund C. Burns, General Counsel

To: Commissioners

From: Edmund C. Burns

Date: March 22, 2016

Re: Proposed Rulemaking for Surveillance (9 NYCRR Part 5314)

For Commission consideration are proposed rules for gaming facility surveillance. The proposed Part addresses the following topics: submission of a gaming facility licensee's surveillance plan of operation; requirements for the surveillance department including location and equipment and the monitoring of certain areas and activities; surveillance department employee training and restrictions; and the retention of records.

Highlights of the proposal follow:

- Section 5314.1 sets forth the requirements for a gaming facility licensee's submission of a surveillance plan of operation.
- Sections 5314.2 through 5314.4 guide a gaming facility licensee on, among other things, surveillance department staffing and equipment.
- Section 5314.5 and 5314.6 set forth the areas and activities within the gaming facility that are required to be monitored and recorded by the surveillance department.
- Section 5314.7 establishes the retention periods for audio, visual and other recorded activities.

A copy of the full text of the proposed Part 5314 is attached.

The proposed text was circulated to the three gaming facility licensees and the applicant currently being considered for licensure for their review and comments were incorporated into this proposal.

Commissioners
March 22, 2016
Page 2

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attachment

cc: Robert Williams, Executive Director
Chris Palmer, Deputy Director, Division of Gaming
Heather McArn, Associate Counsel

PART 5314
Surveillance

Section	
5314.1	Surveillance plan of operation; approval; plan amendment
5314.2	Surveillance department establishment; independence; physical characteristics; employee restrictions; training
5314.3	Surveillance room access, required logs
5314.4	Required equipment; capabilities
5314.5	Required surveillance
5314.6	Required recording
5314.7	Surveillance records retention

§ 5314.1. Surveillance plan of operation; approval; plan amendment.

(a) A gaming facility licensee shall not be permitted to commence operations until the commission has approved in writing such licensee's surveillance plan of operation. Such plan shall be submitted for commission review no later than 60 days prior to the expected date of issuance of such gaming facility's operation certificate.

(b) A surveillance plan of operation shall detail the:

- (1) surveillance system and equipment used;
- (2) placement of all surveillance equipment in the gaming facility; and
- (3) staffing necessary to provide for the continuous monitoring of activities inside and outside the licensed facility taking into account the size and layout of the facility as well as the number and location of gaming devices on the gaming floor.

Such plan also shall address any planned shutdown of the surveillance system and any equipment failure that affects the surveillance room or any other equipment that may hinder the appropriate execution of surveillance functions and provide for an emergency contact listing with telephone numbers for persons required to be notified of any such event.

(c) The commission shall review a gaming facility's surveillance plan of operation and approve such plan if such plan is consistent with this Subchapter..

(d) A gaming facility licensee shall not alter or amend its surveillance plan of operation unless the commission has first approved in writing such alteration or amendment. A gaming facility licensee seeking to alter or amend its surveillance plan shall submit proposed alterations or amendments to such surveillance plan to the commission not less than seven days before the desired alteration or amendment would take effect. All requests for a plan alteration or amendment shall include:

- (1) details of the change, including the floor plan;

(2) reason for the change; and

(3) expected results of the change.

(e) In the event of an emergency, a gaming facility licensee may deviate from such licensee's approved surveillance plan of operation. In such instance, such gaming facility licensee shall notify the commission promptly that an emergency exists before deviation from the surveillance plan, then shall, as soon as practicable, submit a written description to the commission of the emergency and the circumstances necessitating the emergency deviation. As soon as the circumstances necessitating the emergency deviation abate, the gaming facility licensee shall resume compliance with the approved surveillance plan of operation. If the emergency does not abate, the gaming facility licensee shall seek, as soon as practicable, an amendment to its surveillance plan of operation.

(f) The commission shall have full access to, but not be capable of overriding, a gaming facility licensee's surveillance system and the transmissions therein. Each member of a gaming facility's surveillance department shall comply with any commission request to:

(1) use, as necessary, any surveillance monitoring room in the gaming facility;

(2) display on the monitors in the monitoring room any event capable of being monitored by the surveillance system; and

(3) make a video and, if applicable, audio recording of, and take a still photograph of, any event capable of being monitored by the surveillance system.

§ 5314.2. Surveillance department establishment; independence; physical characteristics; employee restrictions; training.

(a) Each gaming facility licensee shall establish and maintain a surveillance department, independent of all other departments at such gaming facility, which shall be responsible for the clandestine monitoring and recording of certain activities inside and outside the gaming facility.

(b) A surveillance monitoring room, or rooms, shall be located within a gaming facility. Such room or rooms shall be staffed continuously by employees who shall at all times monitor activities inside and outside the gaming facility, including those enumerated in section 5314.5 of this Part.

(c) A surveillance monitoring room shall:

(1) contain such equipment and supplies as necessary to undertake the required surveillance activities, taking into consideration current developments in electronic and computer technology, for the effective performance of the activities to be conducted therein including, without limitation:

- (i) a communication system capable of monitoring all gaming facility security department activities; and
 - (ii) a view-only terminal allowing access to the computerized monitoring systems used by the gaming facility licensee in monitoring and management of its gaming operations;
- (2) be connected to all gaming facility alarm systems, which may provide a visible, audible or combination signal; provided, however, that any robbery or other emergency-type alarm shall be perceptually distinguishable from all non-emergency alarm types in a manner approved by the commission;
- (3) contain a library consisting of photographs that
- (i) are no more than four years old, of all current employees of the licensee; and
 - (ii) represent patrons on any self-exclusion or excluded persons list;
- (4) contain and have readily accessible to all surveillance room employees an updated operational blueprint depicting all areas of the gaming facility and elsewhere in the gaming facility where surveillance coverage is available.
- (5) be equipped with telephones connected to the gaming facility licensee's general telephone system and at least one direct outside line independent of the general telephone system; and
- (6) be equipped with radio communication connectivity with the security department.
- (d) A gaming facility licensee shall require surveillance and security employees to undergo annual incident management training administered by a certified trainer in cooperation with law enforcement and the local fire department. Such training shall be geared to prepare surveillance and security employees on proper procedures to follow in the event of a fire, robbery attempt, bomb threat, terrorist activity, medical emergency or other major occurrence. Such training shall be geared to instruct gaming facility employees in all of the following:
- (1) incident management procedures;
 - (2) incident management notifications and communications to, for example, police, fire, ambulance and hospitals;
 - (3) securing facility records;
 - (4) securing the facility;
 - (5) evacuation; and
 - (6) fire and medical emergencies.

(e) No former gaming facility licensee surveillance department employee shall accept employment

(1) in another capacity within the same gaming facility; or

(2) within any other gaming facility whose surveillance department is under the operational control of the same person who controlled the surveillance department in which such employee had been employed previously,

unless one year has passed since such former employee worked in such surveillance department.

(f) A current or former surveillance department employee may petition the commission for a waiver of a restriction set forth in subdivision (e) of this section and permission to be employed in a particular position. The commission may grant or deny the waiver upon consideration of factors including, without limitation:

(1) whether the former surveillance department employee will be employed in a department or area of operation that the surveillance department monitors;

(2) whether the surveillance and security systems of the licensee will be jeopardized or compromised by the employment of the former surveillance department employee in the particular position; and

(3) whether the former surveillance department employee's knowledge of the procedures of the surveillance department would facilitate the commission by any individual of irregularities or illegal acts or the concealment of any actions, errors or omissions.

§ 5314.3. Surveillance room access, required logs.

(a) Entrances to the monitoring room or rooms shall not be visible from the gaming area. Access by gaming facility licensee employees to a monitoring room or any other designated area capable of receiving a surveillance transmission shall be prescribed by the gaming facility's system of internal controls, as approved by the commission.

(b) Any person, other than a commission representative, who enters any monitoring room or designated area related to surveillance and is not a surveillance department employee shall sign a monitoring room entry log upon entering the restricted area. The monitoring room entry log shall be kept in the monitoring room and maintained in a book with bound numbered pages that cannot be removed readily.

(c) The entry log book shall include, at a minimum, the:

(1) date and time of entering into the monitoring room or designated area;

(2) entering person's name and his or her department or affiliation;

- (3) reason for entering the monitoring room or designated area;
- (4) name of the surveillance department employee authorizing the person's entry into the monitoring room or designated area; and
- (5) date and time of exiting the monitoring room or designated area.

(d) Each gaming facility licensee shall maintain a daily surveillance log in an electronic format that has an audit function that prevents modification of information after the information has been entered into the system. Such daily surveillance log shall:

- (1) be maintained continuously by surveillance employees;
- (2) be changed with each shift change of employees;
- (3) be chronological; and
- (4) contain, at a minimum, all of the following information:
 - (i) the date and time of each log entry;
 - (ii) the identity of the employee making the log entry;
 - (iii) a summary of the activity recorded;
 - (iv) whether the activity was monitored; and
 - (v) disposition of the recording, if any.

(e) All daily surveillance log entries shall contain the following information, unless otherwise directed in writing by the commission:

- (1) the identity of any surveillance room employee each time any such person enters or exits the surveillance room and the reason for such entry or departure;
- (2) the notification of any maintenance or repair of any gaming device or money-handling equipment;
- (3) live table drop box exchanges;
- (4) electronic gaming device drop bucket exchanges;
- (5) transfers of cash, chips, tokens, cards or dice;
- (6) any detention or questioning of patrons or employees by the security department, including the identity of the patrons or employees and the security department employees involved;

- (7) the beginning, end and any interruptions of the soft count;
- (8) an observed violation of the act or this Subchapter or of the gaming facility licensee's internal control procedures;
- (9) suspected criminal activity;
- (10) malfunction or repair of surveillance equipment;
- (11) an emergency activity;
- (12) surveillance conducted on anyone or any activity that appears unusual, irregular or illegal or appears to violate the act or this Subchapter;
- (13) surveillance conducted at the request of the gaming facility licensee, an employee of the gaming facility licensee, a commission representative or the New York State police;
- (14) other notations deemed necessary by surveillance room employees or the commission to ensure compliance with the act and this Subchapter.

§ 5314.4. Required equipment; capabilities.

The surveillance system shall include, at a minimum, the following:

(a) A surveillance system shall include light-sensitive cameras with lenses of sufficient magnification to allow the reading of information on, at a minimum, gaming chips, plaques, playing cards, dice, tiles, slot machine reel symbols, slot machine credit meters and employee credentials. Such cameras shall have 360-degree-pan, tilt and zoom capabilities, without camera stops, that allow effective and clandestine monitoring in detail and from various vantage points. A gaming facility licensee may use either an analog or digital video recording format, so long as the format selected incorporates current technology with regard to secure system access, video cameras, monitors, recorders, video printers, switches, selectors and other ancillary equipment and provides for surveillance of activities inside and outside the gaming facility.

(b) A surveillance system shall include video recording equipment that, at a minimum, shall:

- (1) permit the preservation and viewing of a clear copy of the transmission produced by any camera connected to the surveillance system;
- (2) be capable of superimposing the time and date of the transmission on each recording made by the video recording equipment; and
- (3) enable the operator to identify and locate, through the use of a meter, counter or other device or method, a particular event that was recorded.

(c) A surveillance system shall be capable of recording media, which shall be replaced immediately upon the manifestation of any significant degradation in the quality of the images or sound, if applicable, recorded thereon.

(d) A surveillance system shall have audio capability in the soft-count room;

(e) A surveillance system shall have an emergency power system that can be used to operate the surveillance system in the event of a power failure, such power system to be tested at least annually, or more frequently if a test is failed; and

(f) A gaming facility shall implement a preventive maintenance program, executed by technicians subject to the direction and control of the director of surveillance, that ensures that the entire surveillance system is maintained in proper working order and that transparent covers over surveillance system cameras are cleaned in accordance with a routine maintenance schedule. In the event that preventive maintenance to be performed by a technician assigned to another department is required on an emergency basis, the surveillance department shall have priority with respect to staffing resources of such other department to ensure the efficacy of the surveillance system.

(g) Routine maintenance of surveillance equipment must be completed in one of the following ways:

(1) without compromising any of the surveillance coverage provided by the surveillance system; or

(2) according to a plan subject to the review and approval of the commission.

§ 5314.5. Required surveillance.

(a) Each gaming facility licensee shall provide surveillance of the following locations and activities:

(1) gaming conducted at each table game and the activities in the gaming pits;

(2) gaming conducted at the slot machines;

(3) operations conducted at and in the cashiers' cage, any satellite cage and each office ancillary thereto;

(4) operations conducted at and in the slot booths;

(5) operations conducted at automated coupon-redemption machines;

(6) count processes conducted in the count rooms;

(7) movement and storage of cash, gaming chips and plaques, drop boxes, bill validator boxes, slot cash storage boxes, slot drop boxes and slot drop buckets;

- (8) entrances and exits to the gaming facility, count rooms and any other location required by the commission;
- (9) equipment designated by the commission in conjunction with the operation of an electronic-transfer credit system, a gaming-voucher system and a slot-monitoring system approved to conduct manual slot payouts;
- (10) operation of automated jackpot-payout machines, gaming-voucher-redemption machines, gaming-voucher systems and electronic-transfer credit systems;
- (11) all table games;
- (12) gaming facility licensee's parking garages, driveways and valet parking areas; and
- (13) all other areas as that the commission may designate.

(b) Whenever a gaming facility licensee replaces or modifies a gaming device on the gaming floor or other restricted areas, the surveillance department shall conduct an inspection as to the sufficiency of surveillance coverage. For those replacements or modifications that impact surveillance coverage, the director of the surveillance department shall prepare and submit to the commission prior to implementation a written certification attesting that the inspection was conducted and the surveillance coverage is sufficient.

§ 5314.6. Required recording.

A surveillance system shall be required to record, during the times and in the manner indicated below, all transmissions from cameras used to observe the following locations, persons or transactions:

- (a) all table games, whether active or inactive;
- (b) all activities conducted inside the cage, count room and satellites;
- (c) each simulcast and keno window that is open for business;
- (d) such main bank areas where gross revenue functions are performed;
- (e) the collection of drop boxes, slot drop boxes and slot cash storage boxes and the count of the contents therein;
- (f) any armored car collection or delivery of cash for which security escort or surveillance coverage is required;
- (g) the inspection and distribution of gaming equipment to gaming pits;

(h) the retrieval of gaming equipment from gaming pits at the end of the gaming day and their delivery to the location designated and approved for inspection, cancellation, destruction or, if applicable, reuse;

(i) each transaction conducted at a kiosk, automated bill breaker, voucher/coupon redemption and jackpot payout machine, as well as each replenishment or other servicing of any such machines; and

(j) the entrances and exits to the gaming facility, count rooms and all other locations as the commission may require in writing.

§ 5314.7. Surveillance records retention.

(a) A recording of routine activity shall contain a date-and-time reading and shall be retained for not less than 14 days. All activity in the cage and count rooms shall be retained for not less than 21 days. The commission may, in its discretion, order a longer retention period for a particularly identified recording.

(b) A visual or audio recording of detention or questioning of a detained patron or employee shall be provided immediately to the commission upon request. Such recording shall contain a date-and-time reading and shall be labelled with all of the following:

(1) the date and time the recording was made;

(2) the identities of the surveillance department employee or employees responsible for the monitoring; and

(3) the identity of the surveillance department employee who provides such recording media and the time and date of delivery to the commission. Such recording shall be retained for not less than 14 days after the original recording is provided to the commission.

(c) An original recording of a violation of internal controls or criminal activity shall be provided immediately to the commission. A copy of such recording shall be retained for not less than 90 days after the original is provided to the commission. Such recording shall contain a date-and-time reading and be marked with all of the following:

(1) the date and time the recording was made;

(2) the identity of the surveillance department employee or employees responsible for the monitoring; and

(3) the identity of the surveillance department employee who provided to the commission the media from the recorder.