

Staff Proposed Rule Change

- **Licensees must submit new and updated documents and information within thirty days.**

April 2013 – Final Action

March 2013 – Study Session

February 2013 – Up for Discussion and Possible Filing

January 2013 - Study Session

ITEM: 9

a) Amendatory Section: WAC 230-06-080

Reporting changes to application information and submit updated documents and information.



Proposed Amendment to
WAC 230-06-080
 Reporting changes to application information and submit updated documents and information.

April 2013 – Final Action
March 2013 – Study Session
February 2013 – Up for Discussion and Possible Filing
January 2013 - Study Session

ITEM 9 (a) on the April 2013 Commission Meeting Agenda.	Statutory Authority 9.46.070
Who proposed the rule change?	
Staff.	
Proposed Change	
Staff is requesting a rule change to clarify that licensees must report certain new and updated information to us within thirty days, such as changes in their articles of incorporation or bylaws, contracts that relate to gambling activities, and cash contributions.	
History of Rule	
The thirty day requirement was previously in our rules and was inadvertently removed during a Rules Simplification Project (RSP) that was completed in 2008 to rewrite our rules in Plain Talk.	
Prior to the RSP, this rule was worded slightly different. The 30-day reporting requirement was specifically required for the items listed in subsection (2) of the rule. During RSP, the 30-day timeframe was only included in subsection (1), which only pertains to items initially submitted with an application.	
Subsection (2) pertains to new or updated documents that must be reported to agency staff so they can be properly reviewed, approved and investigated if necessary (e.g. loans, contracts/agreements, business organizational documents, etc.).	
Impact of the Proposed Change	
This change clarifies the timeline for licensees to submit new and updated documents to us.	
A Small Business Economic Impact Statement was not prepared because the rule change would not impose additional costs on any licensees. Licensees are already required to report these changes.	
Regulatory Concerns	
Adoption of the change would remove the regulatory concern that this rule may be unclear.	
Resource Impacts	
None.	
Policy Consideration	
None.	
Statements Supporting the Proposed Rule Change	
None.	
Statements Opposing the Proposed Rule Change	
None.	
Licensees Directly Impacted By the Change	
All organizational licensees.	
Staff Recommendation	
Final action.	
Proposed Effective Date for Rule Change	
July 1, 2013.	

Amendatory Section:

WAC 230-06-080 Report changes to application information and submit updated documents and information.

(1) Licensees must notify us in writing if any information filed with the application changes in any way within thirty days of the change.

(2) Licensees must submit to us any new or updated documents and information within thirty days of the effective date of the document or information, including the following:

(a) Articles of incorporation or bylaws, or any other documents which set out the organizational structure and purposes; and

(b) All oral or written contracts and agreements which relate to gambling activities or alter the organizational structure of the licensee's organization or business activities in Washington; and

(c) All cash or asset contributions, draws from lines of credit, and loans (except those from recognized financial institutions) during any calendar year which by themselves or totaled together are more than ten thousand dollars. Cash or asset contributions do not include donations to licensed charitable or nonprofit organizations; and

(d) Internal Revenue Service tax deductible status of contributions for charitable and nonprofit organizations.

Staff Proposed Rule Change

- **No longer requiring spouses of officers of charitable or nonprofit organizations, or board members of publicly-traded entities to undergo background checks.**

April 2013 – Final Action

March 2013 – Study Session

February 2013 – Held Over

January 2013 – Held Over

December 2012 – No meeting

November 2012 – Study Session

October 2012 – Up for Discussion and Possible Filing

September 2012 – Study Session

ITEM: 10

- a) **Amendatory Section: WAC 230-03-065**
Spouses must also be qualified.
- b) **Amendatory Section: WAC 230-03-045**
Defining substantial interest holder.



Amendments to
WAC 230-03-065 Spouses must also be qualified.
WAC 230-03-045 Defining substantial interest holder.

April 2013 – Final Action
March 2013 – Study Session
February 2013 – Held Over
January 2013 – Held Over
December 2012 – No meeting
November 2012 – Study Session
October 2012 – Up for Discussion and Possible Filing
September 2012 – Study Session

ITEM 10 on the April 2013 Commission Meeting Agenda.	Statutory Authority 9.46.070
Who proposed the rule change?	
Staff.	
Proposed Change	
<p>Bold = Change made after the October 2012 Commission meeting:</p> <p>The proposed rule change would no longer require spouses of officers of charitable or nonprofit organizations (C/NP), or officers and board members of publicly-traded entities to undergo background checks.</p> <p>Our current rules specifically require the spouse of a C/NP officer to meet the same licensing requirements as the C/NP officer regardless of the role the spouse may play in the organization. In addition, our current rules are written in such a way that spouses of public company board members or officers are considered substantial interest holders and required to qualify for a license even though their involvement is minimal or absent altogether. One way we determine qualification is by submitting fingerprint information through a national criminal history background check. This proposed rule change seeks to remove the presumption that such spouses have influence over the publicly-traded company or C/NP organization. Staff recognizes this change will likely reduce licensing processing times because staff would not automatically seek fingerprint information from these spouses. Staff presumes that such spouses pose little to no regulatory risk because it is reasonably likely they are not directly or indirectly involved in the entity’s or organization’s policy, management or decision making. Obtaining fingerprints from such spouses frequently causes significant delays in our ability to make a licensing determination because solicited information is outstanding. The proposed change does not seek to preclude an investigation by agency staff if agency staff have reason to believe the spouse has actual influence over the management or operation of the publicly-traded company or the C/NP organization in which case the licensing requirement applies.</p> <ul style="list-style-type: none"> • At the January 2013 Commission meeting, this proposal was up for final action. Prior to the meeting, staff was asked to hold it over because an attorney representing a licensee submitted a letter and proposed some changes for our consideration. They proposed that we no longer background the spouses of <u>officers</u> of publicly traded companies. Staff agrees with this change because spouses of officers typically have little to no decision-making power or influence over the operations of the companies. • Staff added language to WAC 230-06-045 (3) to state that spouses of officers of charitable or nonprofit organizations and spouses of officers or board members of publicly-traded entities are not considered substantial interest holders, unless there is evidence to the contrary. If so, then an investigation will be conducted to determine suitability. • Furthermore, staff made a housekeeping change to WAC 230-06-065(1) to remove the language “and officers of charitable or nonprofit organizations” which was not needed. 	

Attachments:

Letter dated January 8, 2013, from Debora Juarez to Susan Newer.

Letter dated December 13, 2012, from Tina Griffin to David Malone.

E-mail dated July 5, 2012, from Jennifer LaMont to David Malone.

Letter dated June 21, 2012, from David Malone to Tina Griffin.

Letter dated December 13, 2012, from Tina Griffin to Debora Juarez.

Letter dated June 25, 2012, from Tina Griffin to Debora Juarez.

Letter dated June 13, 2012, from Debora Juarez to Tina Griffin.

History of Rule

In the past, spouses of board members, officers of publicly traded companies and C/NP officers have been treated as substantial interest holders and therefore, were required to successfully pass a national criminal background check.

We have conducted background checks on spouses in the past because RCW 9.46.070(7) states the Commission shall require fingerprints on any person that has an ownership interest in a business that is applying for a license. We included spouses because they could be a substantial interest holder. However, the RCW also states that we must establish rules to delineate which persons named on the application are subject to national criminal history background checks. In identifying these persons, the Commission must take into consideration the nature, character, size, and scope of the gambling activities requested by the persons making such applications.

Impact of the Proposed Change

This change is likely to reduce processing times of publicly-traded and C/NP licensees and applicants. Obtaining fingerprints from spouses of officers of C/NP **and spouses of officers and board members of publicly traded companies** is very time consuming for staff and applicants. This frequently causes delays in staff determining qualification for licensure.

A Small Business Economic Impact Statement was not prepared because the rule change would not impose additional costs on any licensee.

Regulatory Concerns

There is little to no risk posed by spouses of board members and officers of publicly-traded licensees or C/NP's. Providing an exception for these spouses will not reduce the effectiveness of our regulatory program as these individuals have little to no decision-making power or influence over the operations of the companies or C/NP.

We contacted other jurisdictions to see how (or if) they regulate spouses and officers of publicly traded companies.

Nevada reported that Board of Directors must apply with fingerprints. Spouses must complete a release form which allows Nevada to request the information if needed.

Michigan reported that they have no requirements for spouses or officers if there is no ownership interest over 5% in the business.

Louisiana reported they have three types of gambling (racetrack, riverboat, and video poker). Only video poker applicants are required to submit spousal information. For the other two license types, the qualifying term "significant interest" is used, which allows them to ask for spousal information, but they do not require it. In the case of an entity that is regulated by a federal agency, they have the licensee fill out a waiver for the spouse.

New Jersey referred us to the Assistant Attorney General. Time constraints did not allow for follow up. Review of their gambling laws indicates that corporate officers must complete an application. There is no mention of spouses. The code does state the director may waive or request information.

California - From a review of their gaming laws and forms, it appears that card room employees' spouses must be disclosed and fill out waiver forms. Officers and directors of privately held companies, and persons holding over 5% ownership interests must complete an application and background check. It did not appear that officers of publicly traded companies were required to complete an application.

Resource Impacts

Removing the requirement of fingerprinting spouses will save resources as we will spend considerably less time obtaining fingerprints from these individuals, as well as the cost (\$32.50) of processing the fingerprints. Furthermore, it will save licensees time and money for fingerprinting.

Policy Consideration

None.

Statements Supporting the Proposed Rule Change

None.

Statements Opposing the Proposed Rule Change

None.

Licensees Directly Impacted By the Change

Publicly-traded and C/NP licensees.

Staff Recommendation

Final Action.

Proposed Effective Date for Rule Change

Staff recommends an effective date of 31 days from filing the adopted rule, which will be approximately May 13, 2013. Staff is recommending this effective date because this amendment is a cost savings to licensees and us.

Bold / Highlight = Changes made after the January 2013 Commission Meeting

Amendatory Sections:

WAC 230-03-065 Spouses must also be qualified.

- (1) Applicants' spouses must also meet the qualifications to hold a gambling license when married persons who maintain a marital community apply for or hold a license to operate gambling activities. This includes, but is not limited to, owners and substantial interest holders of commercial gambling establishments (~~(-and officers of charitable or nonprofit organizations)).~~
- (2) If you are a licensed employee of a gambling operation, officer of a charitable or nonprofit organization, or an officer or board member of a publicly-traded entity, your spouse does not need to meet the licensing qualifications **unless they are deemed to be a substantial interest holder.**

WAC 230-03-045 Defining substantial interest holder

- (1) "Substantial interest holder" means a person who has actual or potential influence over the management or operation of any organization, association, or other business entity.
- (2) Evidence of substantial interest may include, but is not limited to:
 - a. Directly or indirectly owning, operating, managing or controlling an entity or any part of an entity; or
 - b. Directly or indirectly profiting from an entity or assuming liability for debts or expenditures of the entity; or
 - c. Being an officer or director or managing member of an entity; or
 - d. Owning ten percent or more of any class of stock in a privately or closely held corporation; or
 - e. Owning five percent or more of any class of stock in a publicly traded corporation; or
 - f. Owning ten percent or more of the membership shares/units in a privately or closely held limited liability company; or
 - g. Owning five percent or more of the membership shares/units in a publicly traded limited liability company; or
 - h. Providing ten percent or more of cash, goods, or services for the start up of operations or the continuing operation of the business during any calendar year or fiscal year. To calculate ten percent of cash, goods, or services, take the operational expenses of the business over the past calendar or fiscal year, less depreciation and amortization expenses, and multiply that number by ten percent; or
 - i. Receiving, directly or indirectly, a salary, commission, royalties, or other form of compensation based on the gambling receipts.
- (3) Spouses of officers of charitable or nonprofit organizations and spouses of officers or board members of publicly-traded entities are not considered substantial interest holders, unless there is evidence to the contrary. If so, then an investigation will be conducted to determine if they qualify as a substantial interest holder.

January 8, 2013

SENT VIA U.S. MAIL AND ELECTRONIC MAIL

Ms. Susan Newer
Rules Coordinator
Washington State Gambling Commission
P.O. Box 42400
Olympia, WA 98504-2400

Re: Opposition to Amendments to WAC 230-03-045 and WAC 230-03-065

Dear Ms. Newer:

On behalf of Bally Technologies, Inc. ("Bally"), we write in opposition to the proposed amendments offered by the Washington State Gambling Commission ("Commission") staff respecting WAC 230-03-045 and WAC 230-03-065. Although a step in the right direction, the proposed amendments still impose an unnecessary burden on spouses of corporate officers, create a regulatory requirement that is unmatched anywhere else in the country, and is unnecessary in light of already-existing federal regulations. Consequently, Bally respectfully requests that the proposed language be tabled until a subsequent Commission meeting when alternative language may be proposed that exempts the spouses of corporate directors and corporate officers of publicly-traded entities from the definition of "substantial interest holders" and, by extension, the fingerprinting requirements of WAC 230-03-045 and WAC 230-03-065.

Bally is a manufacturer of gaming equipment. It is a publicly traded company that is licensed in more than 250 jurisdictions worldwide. As part of the gaming community, Bally fully supports the Commission in executing its mission and ensuring the integrity of gaming in Washington. Like other companies, Bally fought to remain competitive and profitable in spite of the severely adverse national economic conditions of the past several years. Toward that end, Bally places a high premium on the wisdom and guidance provided by its company leadership in the form of officers and directors. Any regulatory action that makes it more difficult to identify, secure, and retain excellent corporate leadership is of significant concern for Bally.

On or around May 16, 2012, Bally received a letter from the WSGC requiring fingerprints for five Bally directors, officers, and/or substantial interest holders and their spouses. The requirement appeared to be a result of an internal staff interpretation of WAC 230-03-045 and

WAC 230-03-065. These regulations had been in force since 2008 and there had been no similar request in the past. Concerned about the possible impact such an interpretation would have on corporate leadership, Bally submitted a letter on June 13, 2012 to the Commission staff for consideration outlining Bally's opposition to the fingerprinting requirement with respect to spouses. We understand that the letter is included as part of the record on this matter and is available for the Commission's review and consideration.

Bally has several concerns with the proposed amendments. To Bally's knowledge, the current staff interpretation of WAC 230-03-045 and WAC 230-03-065, and the proposed amendments to those regulations, comprise the most aggressive regulations on the subject in the United States. Bally is unaware of any other U.S. jurisdiction that requires fingerprinting of spouses of corporate officers and directors. To Bally's knowledge, there is no situational requirement unique to Washington that necessitates such a regulation.

As a consequence of being singularly aggressive, the existing staff interpretation and proposed amendments may make it substantially more difficult to secure qualified individuals willing to serve in positions of corporate leadership. Finding such individuals is always a challenge. It is made much more so, however, by regulations such as the current staff interpretation of WAC 230-03-045 and WAC 230-03-065. The proposed regulatory amendments, which merely exempt spouses of corporate *directors*, are an improvement over the existing staff interpretation, but retain the unnecessary requirement for spouses of corporate *officers*. Bally wishes to protect against unnecessarily intrusive regulations that impede its ability to conduct business and further hinder the process of securing and retaining qualified corporate leadership. For some prospective officers, the requirement that their spouse undergo an intrusive fingerprinting process may deter them from a willingness to serve in a position of corporate leadership at Bally and other similarly-situated companies in Washington. This would have an adverse impact for Bally and the broader gaming industry in this state.

In addition to being singularly aggressive, it is unclear what purpose the fingerprinting of spouses of corporate directors and officers of a gaming manufacturer would serve. The intent of WAC 230-03-065 is to regulate spouses of individuals who are intimately involved in the gambling activity (specifically, those who apply for or hold a license to "operate gambling activities"). Interestingly, however, WAC 230-03-065(2) specifically exempts spouses of licensed employees of a gambling operation. These employees are, of course, far more intimately involved in the nexus of gambling activities than corporate officers or directors of a company that simply manufactures machines. Consequently, the purpose of the regulatory provisions is inappropriately applied to require fingerprints from spouses of officers and directors of manufacturer licensees. Please refer to our analysis on pages 2-3 of our June 13, 2012, letter that is a part of the record.

As we noted in our letter of June 13, 2012, the practical barriers to implementing the current staff interpretation of the regulations and the proposed amendments suggest an alternative approach is warranted. The record prepared in advance of this Friday's meeting of the

Commission includes a June 21, 2012, letter from Dave Malone, representing the United States Playing Card Company (“USPCC”). In that letter, Mr. Malone requests an exemption for a spouse of a member of the USPCC board of directors who lives in a non-community property state. Given the geographic diversity of corporate leadership, this is likely to be only the tip of the iceberg of requests for exemptions if the rule amendments as currently drafted are placed into effect.

Finally, it should be noted that alternatives exist to the current unnecessarily intrusive interpretation of WAC 230-03-045 and WAC 230-03-065. Applicants submit identifying information (e.g., name, SSN, DOB) of their spouses and information regarding the spouses’ arrest records. This is sufficient to conduct an investigation to determine whether there exists something in the spouses’ backgrounds that justifies a deeper look. The overwhelming majority of the time there will not be, but in those cases where it does, the Commission has authority to look further. Further regulations at the state level are both unnecessary and impractical.

Thank you for your consideration of our request that the amendments to WAC 230-03-045 and WAC 230-03-065 be tabled until another meeting in the near future when alternative language may be proposed, either by the staff or by the public. As the Commission meeting is this Friday, we respectfully request that you inform us by close of business on Wednesday, January 9th regarding whether the Commission staff has decided to table the proposed amendments or move forward for final action at Friday’s meeting.

Thank you.

Very truly yours,

Sent without signature to avoid delay

Debora Juarez
Attorney-at-Law
(206) 628-6600
djuarez@williamskastner.com

cc: Tina Griffin, Assistant Director, Licensing Operations Division, WSGC
Client



STATE OF WASHINGTON
GAMBLING COMMISSION

"Protect the Public by Ensuring that Gambling is Legal and Honest"

December 13, 2012

David Malone
Miller Malone & Tellefson
3110 Ruston Way, Suite F
Tacoma, WA 98402

Dear Mr. Malone:

This letter is a follow-up to your letter of June 21, 2012 seeking a waiver of fingerprinting a spouse of a board member of a publicly traded company. On July 5, 2012, Jennifer LaMont, Tribal Certification Manager, granted your waiver and informed you that we would be reviewing our rules regarding spouses of board members in the future.

I wanted to let you know that we are proposing changes to our Commissioners for their consideration on two of our rules; specifically Washington Administrative Code (WAC) 230-03-045 Defining substantial interest holder and WAC 230-03-065 Spouses must also be qualified.

The change being proposed eliminates spouses of board members of publicly traded companies from being considered substantial interest holders. I have attached a copy of the proposed rule changes for your review.

These rules are up for final action by our Commissioners at our January 2013 Commission Meeting, which will be held in Tumwater. We are still reviewing the agenda to determine if the meeting will be a one or two day meeting. The dates and agenda will be posted on our website at www.wsgc.wa.gov within the next two weeks.

If you would like to submit written support or opposition to the rule proposal, you may send it to Susan Newer, Rules Coordinator, at Susan.Newer@wsgc.wa.gov. If you have any questions, please feel free to contact me at (360) 486-3546 or at Tina.Griffin@wsgc.wa.gov.

Sincerely,

Tina Griffin
Assistant Director
Licensing Operations Division

Enclosure



LaMont, Jennifer (GMB)

From: LaMont, Jennifer (GMB)
Sent: Thursday, July 05, 2012 10:52 AM
To: David Malone
Cc: LaMont, Jennifer (GMB); Griffin, Tina (GMB); Khanhasa, Donna (GMB); Schuster, Keith (GMB)
Subject: United States Playing Card company-Spousal Information Request

Dave,

I am writing this email in response to your request for a waiver of fingerprinting for Nancy Ashken, spouse of Ian Ashken, a member of the USPCC Board of Directors.

In the upcoming months, we will be reviewing our rules, specifically Washington Administrative Code (WAC) 230-03-045, Definition of substantial interest holders; WAC 230-03-060, Fingerprinting of applicants; and WAC 230-03-065, Souses must also be qualified, and likely proposing changes to our Commissioners for their consideration.

Until our review is complete, USPCC does not need to provide the requested fingerprints for spouse Nancy Ashken as requested in our original letter of February 16, 2012. I understand that we have received the fingerprints of the officers, directors, and substantial interest holders of USPCC.

We will keep you updated with our rule review process in the upcoming months and would appreciate USPCC's input as we proceed. If you have any questions please contact me directly

Jennifer LaMont
Tribal Certification Manager
Licensing Operations Division
Washington State Gambling Commission
360-486-3571

MILLER MALONE & TELLEFSON

3110 RUSTON WAY, SUITE F • TACOMA, WASHINGTON • 98402
PHONE: 253-759-9595 • FAX: 253-759-9995

June 21, 2012

Ms. Tina Griffin
Assistant Director
Washington State Gambling Commission
P.O. Box 42400
Olympia, Washington 98504-2400

RECEIVED
JUN 27 2012
GAMBLING/LICENSING

Re: **United States Playing Card Company - Spousal Information Request**
WSGC License Nos. 20-00175 and 21-00236

Dear Assistant Director Griffin:

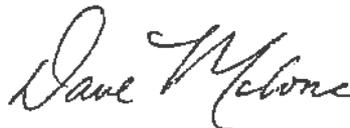
I am writing on behalf of the United States Playing Card Company ("USPCC") to request a waiver of fingerprinting for Nancy Ashken. Ms. Ashken is the spouse of Ian Ashken, a member of the USPCC Board of Directors.

WAC 230-03-065 sets forth a general requirement that spouses of applicants, licensees, and in some instances substantial interest holders must also meet the qualifications to hold a gambling license. However, the Ashkens are residents of Connecticut. And, unlike Washington State, Connecticut is not a community property state. Because of the Ashken's marital status in Connecticut, Ms. Ashken does not have any legal interest or influence over her husband's interest in USPCC. Accordingly, I am respectfully requesting the WSGC waive or otherwise forego requiring Ms. Ashken to submit fingerprints at this time.

Thank you in advance for your consideration of this request. Please do not hesitate to contact me if you need additional information or have any questions.

Sincerely,

MILLER MALONE & TELLEFSON, P.S., INC.



Dave Malone



STATE OF WASHINGTON
GAMBLING COMMISSION

"Protect the Public by Ensuring that Gambling is Legal and Honest"

December 13, 2012

Debora Juarez
Williams, Kastner & Gibbs, PLLC
Two Union Square
601 Union Street, Suite 4100
Seattle, WA 98101

Dear Ms. Juarez:

As follow-up to my June 25, 2012, letter to you regarding fingerprinting officers, directors and spouses of publicly traded companies, I wanted to let you know that we are proposing changes to our Commissioners for their consideration on two of our rules; specifically Washington Administrative Code (WAC) 230-03-045 Defining substantial interest holder and WAC 230-03-065 Spouses must also be qualified.

The change being proposed eliminates spouses of board members of publicly traded companies from being considered substantial interest holders. I have attached a copy of the proposed rule changes for your review.

These rules are up for final action by our Commissioners at our January 2013 Commission Meeting, which will be held in Tumwater. We are still reviewing the agenda to determine if the meeting will be a one or two day meeting. The dates and agenda will be posted on our website at www.wsgc.wa.gov within the next two weeks.

If you would like to submit written support or opposition to the rule proposal, you may send it to Susan Newer, Rules Coordinator, at Susan.Newer@wsgc.wa.gov. If you have any questions, please feel free to contact me at (360) 486-3546 or at Tina.Griffin@wsgc.wa.gov.

Sincerely,

Tina Griffin
Assistant Director
Licensing Operations Division

Enclosures





STATE OF WASHINGTON
GAMBLING COMMISSION

"Protect the Public by Ensuring that Gambling is Legal and Honest"

June 25, 2012

Debora Juarez
Williams, Kastner & Gibbs PLLC
Two Union Square
601 Union Street, Suite 4100
Seattle, WA 98101

Dear Ms. Juarez:

Thank you for your letter in which you summarized your concerns regarding our request for the fingerprints of five officers, directors and substantial interest holders of Bally and their spouses.

In the upcoming months, we will be reviewing our rules, specifically Washington Administrative Code (WAC) 230-03-045, Definition of substantial interest holders; WAC 230-03-060, Fingerprinting of applicants; and WAC 230-03-065, Spouses must also be qualified, and likely proposing changes to our Commissioners for their consideration.

Until our review is complete, you do not need to provide fingerprints for the spouses of the officers, directors and substantial interest holders as requested in our original letter of May 16, 2012. The fingerprints of the five officers, directors, and substantial interest holders need to be provided to us by July 25, 2012, if they have not already been submitted to us.

I will keep you updated with our rule review process in the upcoming months and would appreciate your input as we proceed. If you have any questions, please feel free to contact me at (360) 486-3546 or Tina.Griffin@wsgc.wa.gov

Sincerely,

Tina Griffin
Assistant Director
Licensing Operations Division

Enclosures

cc: Mark Lerner, Sr. Vice President and Secretary, Bally Technologies, Inc.
Rick Day, Executive Director, WSGC



June 13, 2012

17439.0100

VIA E-MAIL AND U.S. MAIL

Tina Griffin
Washington State Gambling Commission
Licensing Division
P.O. Box 42400
Olympia, WA 98504-2400

Re: Request for Withdrawal of Fingerprinting of Spouses
Commission License No. 20-00119 / Bally Technologies, Inc.

Dear Ms. Griffin:

We thank you, Jennifer LaMont and Allen Esparza for taking time to speak with us and our client Bally Technologies, Inc. ("Bally"), represented by its general counsel, Mark Lerner, regarding annual background checks based on fingerprints that are being conducted by the Washington State Gambling Commission as of October 1, 2011. The WSGC requested fingerprints of five officers, directors, and substantial interest holders of Bally, and their spouses. In the hopes that you will reconsider this requirement with respect to spouses, we are submitting our concerns with this new requirement as discussed.

We call to your attention that this new program of annual background checks based on fingerprints is newly implemented as of October 1, 2011, presumably as an internal departmental interpretation of WAC 230-03-065 as that regulation dates back to 2006 and there appears to be no corresponding amendment in the gambling laws or regulations calling for fingerprinting of spouses of licensees who are not gaming operators. We request, for the reasons set forth below, that this interpretation be withdrawn with respect to spouses of officers, directors and substantial interest holders of manufacturer licensees and in particular, Bally, and that your staff reassess this interpretation in light of the fact that the language of the regulation itself does not support it, that policy considerations outweigh any potential regulatory interests, and that as a practical matter, forcing private citizens who are not involved in the licensee's activities to comply with this requirement may not be achieved.

As you know, Bally is a publicly traded company licensed in over 250 jurisdictions worldwide. With the exception of Washington, no other jurisdiction in which Bally is licensed requests fingerprints of spouses of the officers, directors and substantial interest holders. Bally is licensed in Washington to provide machines to the 28 Class III tribal casinos. As you know, under the Indian Gaming and

Williams, Kastner & Gibbs PLLC
Two Union Square
601 Union Street, Suite 4100
Seattle, Washington 98101
main 206.628.6600 fax 206.628.6611
www.williamskastner.com
SEATTLE . TACOMA . PORTLAND

Regulatory Act ("IGRA"), tribes are the primary regulators of their casinos, and the tribes do not require fingerprinting of spouses of officers, directors and substantial interest holders.

We respectfully request that your department reexamine the necessity of this new requirement from legal, policy and practical perspectives. From a legal perspective, the fingerprint requirement for spouses of officers, directors or substantial interest holders of manufacturer licensees is not supported by WAC 230-03-065, which is intended for spouses of married persons holding a license to operate gambling activities. From a policy perspective, the spousal fingerprinting requirement is hugely burdensome, demoralizing, embarrassing and intrusive for the spouses, who in Bally's case are neither employees, officers, directors nor substantial interest holders themselves, and who have already supplied other forms of personal identifying information and written certification as to any criminal history, which should be more than adequate for investigative purposes. In a business environment where intrusive regulatory scrutiny makes it increasingly difficult for public companies to hire and retain top management, this additional layer of regulation has a discouraging effect on people who want to serve as officers and directors of public companies. Finally, ordering compliance from private citizens who are not engaged in the manufacturing industry other than by virtue of simply being married to someone who is, may not be practically achievable. A spouse who refuses to submit fingerprints for whatever reason may not be subject to the WSGC's jurisdiction, and penalizing the principal or the company would in most cases be inappropriate and unnecessary. We urge that the WSGC examine this new departmental interpretation from these perspectives and provide clarity and direction where needed.

We were referred to WAC 230-03-065 as the basis for requiring spousal fingerprints. However, that regulation identifies a type of licensee and type of activity that are inapplicable to Bally as a corporate entity and manufacturer of machines. WAC 230-03-065 states:

- (1) Applicants' spouses must also meet the qualifications to hold a gambling license when married persons who maintain a marital community apply for or hold a license to operate gambling activities. This includes, but is not limited to, owners and substantial interest holders of commercial gambling establishments and officers of charitable or nonprofit organizations. (Emphasis added.)
- (2) If you are a licensed employee of a gambling operation, your spouse does not need to meet the licensing qualifications.

The regulation focuses on married persons who operate gambling activities or own or have a substantial interest in commercial gambling establishments. Bally is a corporation that holds a license to manufacture machines. Bally does not operate gambling activities or own a commercial gambling

establishment. Manufacturing is neither a gambling activity nor operation of a commercial gambling establishment. Thus, WAC 230-03-065 is inapplicable to a manufacturer licensee like Bally that is not engaged in the operation of gambling activities, and to attempt to apply it to non-operator licensees overreaches the scope of the regulation.

In addition, the regulation's reference to "married persons who maintain a marital community" appears to address community property implications in Washington, a community property state where joint ownership is presumed by law unless otherwise specified, by requiring qualification of spouses of licensees who operate gambling activities. With the exception of officers and directors living in Nevada, also a community property state, the other officers, directors, and substantial interest holders of Bally live in non-community property states and therefore do not maintain a "marital community" in the context of the Washington regulation.

The explicit purpose of the regulation is to regulate those who own or operate casinos—i.e., the people who have some measure of control over the casino or who have access to the operational controls of the casino. Subparagraph (2) of the regulation supports this regulatory intent because it makes a distinction between spouses of licensed gaming operators versus spouses of licensed employees of gaming operators, providing that spouses of licensed employees of gaming operators need not meet the licensing qualifications. Reading subparagraph (2) in the context of the regulation then begs the question: If fingerprinting is not required of spouses of employees who work in a casino and who presumably have a closer nexus to the gambling operation, why require fingerprinting of spouses of the directors and officers of a manufacturer who merely supplies machines and are even further removed from the nexus of gambling operations? Thus, we question whether a regulatory concern is even present with respect to spouses of officers, directors and substantial interest holders of manufacturer licensees, particularly when such spouses already provide the WSGC with personal identifying information sufficient to investigate them.

Requiring fingerprints of spouses may be more problematic than initially contemplated by your staff. For example, a spouse may be still married but legally separated from the officer, director or substantial interest holder. A spouse may be estranged and living in another jurisdiction, or infirm, or too old to physically comply with the fingerprinting requirement. Or a spouse may simply refuse to be fingerprinted. A written disclosure attesting to whether such spouse has any criminal history should be more than sufficient.

For these reasons, Bally asks that you reconsider the new interpretation of the regulations and not require manufacturers like Bally to submit fingerprint cards for spouses of applicants. Bally will

June 13, 2012

Page 4

continue to submit its applications but without spouse fingerprints until this issue is resolved. Should you have any further questions or concerns, please contact me at the number below.

Very truly yours,



Debora Juarez

(206) 628-6781

djuarez@williamskastner.com

cc: John Ellis, Chair, WSGC
Mike Amos, Vice-Chair, WSGC
Keven Rojecki, Commissioner, WSGC
Michael Reichert, Commissioner, WSGC
Kelsey Gray, Ph.D., Commissioner, WSGC
Rick Day, Executive Director, WSGC
Dave Trujillo, Deputy Director, WSGC
Mark Lerner, Sr. Vice President and Secretary, Bally Technologies, Inc.

Petition from the Public

Submitted by: Rockland Ridge Corp. and Galaxy Gaming, Inc.

- **Allowing “envy” and “share the wealth” “bonus features” to be connected between different tables of the same game within a single card room.**

April 2013 – Final Action

March 2013 – Study Session

February 2013 – Study Session

January 2013 – Study Session

December 2012- No Meeting

November 2012 – Up for Final Action/ Held over at petitioner’s request

October 2012 – Up for Discussion

September 2012 – Study Session

July 2012 - Staff’s Proposed Amendment Up for Discussion

June 2012 - No Commission Meeting

May 2012 - Staff’s Proposed Amendment Up for Discussion

April 2012 - Filed for Discussion

ITEM: 11

- a) Amendatory Section WAC 230-15-040**
Requirements for authorized card games.
- b) Amendatory Section WAC 230-15-685**
Restrictions on progressive jackpots.



Proposed Amendments to
Amendatory Section WAC 230-15-040 Requirements for authorized card games.
Amendatory Section WAC 230-15-685 Restrictions on progressive jackpots.

April 2013 – Final Action
March 2013 – Study Session
February 2013 – Study Session
January 2013 – Study Session
December 2012- No Meeting
November 2012 – Up for Final Action/ Held over at petitioners’ request
October 2012 – Up for Discussion
September 2012 – Study Session
July 2012 - Staff’s Proposed Amendment Up for Discussion
June 2012 - No Commission Meeting
May 2012 – Staff’s Proposed Amendment Up for Discussion
April 2012 –Up for Discussion and Possible Filing

ITEM 11 (a-b) on the April 2013 Commission Meeting Agenda.	Statutory Authority RCW 9.46.070 & 9.46.0282
Who proposed the rule change?	
Rockland Ridge Corporation, a licensed gambling service supplier, and Galaxy Gaming, Inc., a licensed manufacturer.	
Proposed Change	
Bold = New Information added after the November 2012 Commission meeting.	
<p>The petitioners’ April 2012 petition was to connect “envy” and “share the wealth” “bonus features” between different card games and different tables within a single house-banked card room.</p> <p>The petitioners state in their petition, that:</p> <ul style="list-style-type: none"> • “The change is needed because card room licensees are struggling and closing at a record rate. Loss of these businesses is resulting in a loss of jobs, capital investment and the revenue tax base negatively affecting Washington’s economy and government services;” and • The rule change “is expected to generate additional interest by players, likely resulting in increased activity and revenue for commercial and tribal gaming operators.” <p>At their February 2012 meeting, the Commissioners denied a similar request by the petitioners based on regulatory concerns (meeting minutes are attached). The petitioners submitted a petition a few days after the February meeting addressing areas they believe led to the denial of their first petition, which was filed at the April 2012 Commission meeting (April 2012 petition). The primary differences between the two petitions are the addition of electronic notification and detection features and a lock out feature.</p> <p>Equipment Testing: After the July 2012 Commission meeting, the petitioners submitted their electronic equipment with two mock (small) tables for review. Staff in the Electronic Gambling Lab reviewed the equipment and determined it matches the petitioners’ April 2012 petition. The equipment has not been approved by the director or his designee.</p> <p>The petitioners revised the petition in October 2012 (October 2012 petition) to remove language referring to “at equal odds” and added bullets 14 and 15 below.</p>	

In March 2013, the petitioners revised their petition (March 2013 petition) to no longer connect different card game types. The March 2013 petition would allow “envy” and “share the wealth” bonus features to be connected over multiple tables, of the same game, in a card room. The March 2013 petition would:

- 1) Limit shared prizes to fixed payouts (no odds based payouts);
- 2) Require certain electronic features to be used on tables offering “envy” and “share the wealth” “bonus features”, when offered on more than one table, to:
 - o Detect and record a player’s bonus wager has been placed;
 - o Provide a visual alert notification system of a winning triggering event; and
 - o Include a system for displaying all winning bonus hands.
- 3) Allow all players in the card room placing “envy” or “share the wealth” wagers to receive the prize even if they are playing at different tables (as long as the game they are playing has the “envy” wager).
- 4) Define “envy” and “share the wealth” as bonus features;
- 5) Allow other game features that do not require a separate wager to be considered bonus features;
- 6) Allow bonus features and progressive jackpots to be combined;
- 7) Allow progressive jackpots prizes for “envy” and “share the wealth” bonus features;
- 8) Define what a separate game is. There is a limit of four separate games in a single hand of cards;
- 9) Clarify that card games and bonus features must be approved by the director or the director’s designee;
- 10) Clarify that the prize in a bonus feature “is based on achieving” the predetermined specific hand;
- 11) Add language to clarify that approved card games must be operated as documented on our agency website;
- 12) Clarify that only one player may place a wager per wager area in the game of Mini-Baccarat; and
- 13) Clarify that licensees may connect progressive jackpots offered on the same card game on multiple tables (WAC 230-15-685).
- 14) Requires that the visual alert notification be visible by the dealer and players at the tables, and surveillance.
- 15) Requires a card room’s Internal Controls to include how winners will be paid.

Attachments:

- **March 2013 petition: Proposed amendment to WAC 230-15-040 and WAC 230-15-685.**
- April 2012 petition and attachment date stamped February 13, 2012.
- **Chart revised March 2013 comparing what WAC 230-15-040 currently allows with the petitioners’ March 2013 petition.**
- Chart dated May 2012 comparing what WAC 230-15-040 currently allows with the petitioners’ proposed amendments.
- Letter dated November 15, 2012, from Representative Hunt to Chair Ellis.
- Letter dated November 15, 2012, from Representative DeBolt to Chair Ellis.
- Letter dated April 19, 2012, notifying stakeholders of the proposed rule change.
- E-mail dated April 20, 2012, from Mr. Parkes, Surveillance Manager at Club Hollywood Casino, and staff’s response.
- State of Nevada Gaming Control Board Equipment Software Modification Approval Number S2011-1557.
- Excerpts from the April, May and July 2012 Commission meetings when this petition was filed and discussed.
- Excerpts from the November 2011, January and February 2012 Commission meetings from when the petitioners’ first petition was filed, discussed and denied.
- WAC 230-01-015 Effective dates for rule-making orders.

History of Rule

Commission rules generally prohibit placing wagers on other players' hands except for "envy" and "share the wealth" wagers, which allow a player to receive a prize based on another player's winning hand. The player with the qualifying hand would not receive the "envy" prize but could win the "share the wealth" prize. For example, in Fortune Pai Gow Poker if a player places a "Fortune" bet of at least \$5 it qualifies the player for "envy" payouts. Players win the "envy" payout when another player at the table receives a four of a kind or higher.

The "envy" or "share the wealth" wagers were authorized for house-banked games in April of 2000 when rules were adopted at the conclusion of the Card Room Enhancement Program for house-banked card games (CREP).

Assistant Director of Field Operations Mark Harris recalls that "envy" wagers were permitted for a short time during the CREP, on one or more tables, but only for the same card game. However, "envy" wagers are not currently being played at more than one table and current rules do not specifically authorize this practice.

Impact of the Proposed Change

The March 2013 petition will allow "envy" and "share the wealth" wagers to be placed on one or more tables of the same card game, throughout a card room. "Envy" or "share the wealth" prizes could be won by anyone placing "envy" or "share the wealth" wagers at designated tables in a card room. The petition would also:

- Define "envy" and "share the wealth" as bonus features;
- **Allow "envy" and "share the wealth" bonus features to be connected to other tables of the same game type;**
- Allow other game features that do not require a separate wager to be considered bonus features;
- Allow bonus features and progressive jackpots to be combined;
- Allow progressive jackpots prizes for "envy" and "share the wealth" wagers; and
- Establish electronic features required on tables offering "envy" and "share the wealth" bonus features connected with other tables of the same game type.

Card Rooms:

Card rooms will need to develop additional Internal Controls to explain what procedures they would use to:

- Identify who has the winning hand; and
- Notify other tables offering "envy" or "share the wealth" wagers that the jackpot has been won; and
- Verify winners of the "envy" or "share the wealth" prize throughout the card room.

The petitioners have developed "Suggested Procedures and Controls" that may assist licensees in developing necessary Internal Controls. The proposed rule change requires licensees to submit the Internal Control procedures to Commission staff for approval prior to operating "envy" and "share the wealth" wagers under this petition.

Tribal Gaming:

- Tribes operating under Class III Gaming Compacts can offer "envy" or "share the wealth" wagers for card games. Only players at the same table are eligible to win the "envy" or "share the wealth" payouts.
- If the Commissioners were to approve "envy" and "share the wealth" wagers to be connected to the same game over multiple tables at non-tribal facilities, the Tribes may be authorized to offer the same depending on terms in their Compact.

Other Jurisdictions:

Nevada

When staff originally contacted Nevada, we were told that “envy” wagers are allowed for card games. Only players at the same table are eligible to win the “envy” payout. Any changes to this would have to be submitted to the Nevada Gaming Board for approval, along with any associated equipment.

Galaxy Gaming provided us a copy of an “Associated Equipment Software Modification Approval” from the Nevada Gaming Control Board (NGCB) for modifications to Galaxy Gaming’s Mega-Share equipment software. According to Galaxy Gaming’s submission to the NGCB, players do not have to be at the same table as the player with the qualifying hand to win the envy wager.

We re-contacted the NGCB and were told Galaxy Gaming Mega-Share Equipment has been operated in one location since December 2011 and there have not been any concerns. **At the March 2013 Commission meeting, the petitioner advised staff that the system is no longer operating at the location.** It is our understanding that this Mega-Share system is a different system than what is proposed in the petition.

New Jersey

Currently, envy bonus wagers are allowed and defined for Pai Gow Poker. Only players at the same table are eligible to win the envy bonus.

California

- At the May 2012 Commission meeting, the petitioner stated that this game is currently operated at two tribal casinos in California.
- After the May meeting, Galaxy Gaming stated to staff they were operating their Mega-Share system at one tribal casino (Colusa Casino) in California, rather than two. According to Galaxy Gaming, the Colusa Casino is not using the event notification system. Because of its small size the pit boss can determine what players are winners when a winning triggering event is announced by looking to see who has a lit sensor.
- Staff contacted the Colusa Tribal Casino in Colusa, California. Casino staff stated they operate 10 house-banked table games. Six of the games are from Galaxy Gaming. They started operating Mega-Share on January 3, 2012, across two Emperor’s Challenge games. On April 30, 2012, they added four more Galaxy Gaming games (three Lucky Ladies and a Deuces Wild) to this for a total of six tables. The system is not using the Electronic Event Notification System, which is proposed in this petition. When a winning trigger event occurs the pit boss makes the announcement. They have had one winning trigger event occur but no prize was won because no one had placed the Mega-Share envy wager. According to the person staff spoke with they have not experienced any problems with the system. The system for logging wagers is working properly.

A Small Business Economic Impact Statement was not prepared because the rule change would not impose additional costs on any licensees. Licensees are not required to offer “envy” and/or “share the wealth” bonus features.

Regulatory Concerns

The complexity of the various bonus features and connected tables may increase the risk of additional complaints from players, card room operators and employees, and other manufacturers; however, the risk may be mitigated based on the frequency of the winning triggering events.

Resource Impacts

- Staff time will be required to review and inspect equipment installed in card rooms prior to being approved for use.
- Staff will need to be trained on this new system.
- Staff time will be required to approve any changes or additions to a card room's Internal Controls. Initial approvals will take more time than subsequent approvals.
- Staff may receive more requests to change card game rules to add "envy" or "share the wealth" wagers and/or "envy" or "share the wealth" jackpots.
- Staff may receive complaints from players who believe they qualify for the "envy" or "share the wealth" payout.
- Staff may receive an increased number of requests for equipment approvals designed to monitor and facilitate the new features. Licensees pay for equipment reviews.
- Staff time will be required to review equipment required to be used on tables offering bonus features connected with any other game and/or table.

Policy Consideration

The proposal would:

- Increase the number and types of bonus features allowed in a card game; and
- Allow bonus features to be tied to progressive jackpots; and
- Allow "envy" and "share the wealth" bonus features to be combined over multiple tables.

The Commission may wish to consider whether or not the proposal is consistent with the legislative intent expressed in RCW 9.46.010.

Statements Regarding the Proposed Rule Change

- E-mail dated April 20, 2012, from Mr. Parkes, Surveillance Manager at Club Hollywood Casino, and staff's response (attached).
- At the May 2012 Commission meeting, M.J. Durkan, representing the Muckleshoot Tribe, asked to have the petition set aside and "first look at the equipment to see if it is viable and works and is fair..."

Statements Opposing the Proposed Rule Change

- Letter dated November 15, 2012, from Representative Hunt to Chair Ellis.
- Letter dated November 15, 2012, from Representative DeBolt to Chair Ellis.

Statements Supporting the Proposed Rule Change

At the April 2012 Commission meeting, the following spoke in support of the petition:

- Bob Tull, attorney for the petitioners; and
- Robert Saucier, co-petitioner.

At the October 2012 Commission meeting, Bob Tull testified that they would be prepared to address questions raised at the October study session at the November Commission meeting.

Licensees Directly Impacted By the Change

House-banked card game licensees, manufacturers, distributors, and service suppliers.

Staff Recommendation

Final Action.

Proposed Effective Date for Rule Change

The petitioners request an effective date of 31 days after adoption. If the Commission chooses to adopt the petition, due to resource impacts listed above, staff recommends an effective date of July 1, 2013, pursuant to WAC 230-01-015 (attached).

**Clean Version of the Petitioners' March 2013 Petition
Up for Final Action at the April 2013 Commission meeting.**

WAC 230-15-040 Requirements for authorized card games.

(1) In order for a card game or "bonus feature" to be authorized, it must be approved by the director or the director's designee and must:

(a) Be played with standard playing cards or with electronic card facsimiles approved by the director or the director's designee; and

(b) Offer no more than four "separate games" with a single hand of cards (~~((However,))~~) and no more than three of the "separate games" may offer a wager that exceeds five dollars each. Additionally, the following definitions and limitations apply to this section: ((We consider bonus features and progressive jackpots separate games. If a player does not have to place a separate wager to participate, we do not consider it a separate game. An example of this is an "envy" or "share the wealth" pay out when another player achieves a specific hand; and))

(i) "Separate game" – Each individual objective to be achieved within a card game that requires a separate wager and results in a distinct and separate payout based upon the outcome. We consider "bonus features" and progressive jackpots separate games unless a separate wager is not required. "Bonus features" and progressive jackpots may be combined with other "bonus features," progressive jackpots and prizes, provided that, the total amount of the wager does not exceed the limits established in this sub-section and in WAC 230-15-140.

(ii) "Bonus Feature" – An added prize and/or variation based on achieving the predetermined specific hand required to win the prize. Examples include, but are not limited to, "envy" and "share the wealth" as defined below and

(c) Not allow side bets between players.

(2) Card game licensees may use more than one deck of cards for a specific game. They also may remove cards to comply with rules of a specific game, such as Pinochle or Spanish 21.

(3) Players must:

(a) Compete against all other players on an equal basis for nonhouse-banked games or against the house for house-banked games. All players must compete solely as a player in the card game; and

(b) Receive their own hand of cards and be responsible for decisions regarding such hand, such as whether to fold, discard, draw additional cards, or raise the wager; and

(c) Not place wagers on any other player's or the house's hand or make side wagers with other players, except for:

(i) An insurance wager placed in the game of Blackjack; or

(ii) ~~An "Envy" and or "share the wealth" wager "bonus features" which allows a player to receive a prize if another player wins a jackpot or odds-based wager; or~~

(iii) A tip wager made on behalf of a dealer.

(4) Mini-Baccarat is authorized when operated in the manner explained for Baccarat in the most current version of *The New Complete Hoyle, Revised* or *Hoyle's Encyclopedia of Card Games*, or similar authoritative book on card games we have approved, and as further described in the Commission approved game rules on the gambling commission's website. However:

(a) Card game licensees may make immaterial modifications to the game; and

(b) Subsection (3) of this section does not apply; and

(c) The number of players is limited under WAC 230-15-055 and only one player may place a wager per wager area.

(5) A player's win or loss must be determined during the course of play of a single card game, except for a carryover pot game. A carryover pot is an optional pot that accumulates as dealer and participating players contribute to the pot. The winner of the pot is not necessarily determined after one game and the pot can be carried over to more than one game. Carryover pots must not carryover more than ten (10) games. Participants must include at least one player and the dealer competing for the highest qualifying winning hand. Game rules must state how the pot is distributed. If the carryover pot has not been won by the tenth game, the dealer will divide it equally between the remaining players still participating in the pot and the house or, if allowed by game rules, only the players still participating in the pot.

(6) "Envy and "share the wealth" bonus features shall be defined and operated as follows:

(a) If a player makes a wager that qualifies for an "envy" bonus feature payout, they are entitled to receive a prize if another player's hand achieves the predetermined specific hand. If a player is playing more than one wagering area or if a hand they are playing is split into two or more hands and any one of their hands achieves the predetermined specific hand, their other hand(s) with a qualifying wager is (are) entitled to receive a prize.

(b) If a player makes a wager that qualifies for a "share the wealth" payout, they are entitled to receive a prize if either their hand(s) or another player's hand achieves the predetermined specific hand.

(7) "Envy" and "share the wealth" bonus features may be authorized for play on the same approved card games on multiple tables in a card room and all qualifying players are entitled to a prize. Shared prizes awarded must only be fixed payouts or part of a progressive jackpot. Odds based payouts are not allowed.

(8) Tables offering any "envy" or "share the wealth" "bonus feature" connected with any other table must include the following electronic features:

(a) A mechanism to detect and record the player's wager and separately identify their qualification for the "envy" or "share the wealth" "bonus feature". This mechanism must protect against any wager modifications attempted by a player subsequent to the recording; and

(b) An alert notification system to immediately provide visual notification, which can be seen by the dealer and players at the tables and surveillance, of a winning triggering event occurring at each connected table. The system must be capable of being activated by the dealer at each table offering the corresponding "envy" or "share the wealth" "bonus feature"; and

(c) A lock-out mechanism that freezes all wager system components associated with the "envy" or "share the wealth" "bonus feature" when won in order to accurately display all winning players at the time the winning hand was detected.

(9) Prior to offering an "envy" or "share the wealth" prize on multiple tables, card game licensees must first submit to us for approval, their internal controls detailing the methods and controls they will use to assure the integrity of these "bonus features" including, but not limited to:

(a) Identifying who has the winning hand; and

(b) How other tables offering the “envy” or “share the wealth” “bonus features” are notified that the prize has been won; and

(c) Verifying and paying winners of the “envy” or “share the wealth” prize throughout the card room.

Amendatory Section:

WAC 230-15-685 Restrictions on progressive jackpots.

House-banked card game licensees operating progressive jackpots must follow these restrictions and procedures:

- (1) Progressive jackpot funds must accrue according to the rules of the game; and
- (2) At each gambling table, licensees must prominently post the amount of the progressive jackpot that players can win; and
- (3) Licensees must record the beginning amount of each progressive jackpot offered, including explanations for any increases or decreases in the prize amount offered. Licensees must keep this documentation with the progressive jackpot records; and
- (4) Licensees may establish a maximum limit on a progressive jackpot prize. If licensees establish a limit, they must make the amount equal to, or greater than, the amount of the jackpot when they imposed the limit. They must prominently post a notice of the limit at or near the game ((-)) and;
- (5) Licensees may connect progressive jackpots offered on the same card game on multiple tables within the same licensed location.

Staff Proposed Rule Change

- **Establish and outline the process when staff withdraws approval of gambling equipment.**

April 2013 – Up for Discussion and Possible Filing
March 2013 – Study Session

ITEM: 12

- a) **New Section: WAC 230-06-052**
Withdrawing gambling equipment authorization.



Proposed New Rule
WAC 230-06-052
Withdrawing gambling equipment authorization.

April 2013 – Up for Discussion and Possible Filing
March 2013 – Study Session

ITEM 12 (a) on the April 2013 Commission Meeting Agenda.	Statutory Authority 9.46.070
Who proposed the rule change?	
Staff	
Proposed Change	
<p>This new rule establishes and outlines the process when staff withdraws approval of gambling equipment. This proposed new rule is based on both WAC 230-15-045 (Withdrawing card game authorization) and WAC 230-06-050 (Review of electronic or mechanical gambling equipment), to allow a process for withdrawing authorization.</p> <p>Attachments: WAC 230-06-050 Review of electronic or mechanical gambling equipment. WAC 230-15-045 Withdrawing card game authorization.</p>	
History of Rule	
<p>We have rules that address the:</p> <ul style="list-style-type: none"> • Process for withdrawing authorization for card games (WAC 230-14-045); and • Review and approval of gambling equipment (WAC 230-06-050). <p>We do not have rules addressing the process for withdrawing authorization of gambling equipment.</p> <p>This new rule is similar to what occurs when gambling equipment submissions are denied. It establishes a rule which allows staff to withdraw authorization of gambling equipment.</p>	
Impact of the Proposed Change	
<p>This new rule will codify procedures for withdrawing authorization of gambling equipment. It also ensures that all approved gambling equipment complies with RCW, WAC, and Tribal-State Compact.</p> <p>A Small Business Economic Impact Statement was not prepared because the rule change would not impose additional costs on any licensees.</p>	
Regulatory Concerns	
The process for withdrawing equipment approval is not clear in our rules. This rule change makes the process clear.	
Resource Impacts	
Minimal.	
Policy Consideration	
None.	
Statements Supporting the Proposed Rule Change	
None.	
Statements Opposing the Proposed Rule Change	
None.	
Licensees Directly Impacted By the Change	
Applicants and licensees with approved gambling equipment.	

Staff Recommendation
File for further discussion.
Proposed Effective Date for Rule Change
Because this new rule will assist licensees by outlining a process, staff recommends an effective date of 31 days from filing, if the rule is adopted by the Commission.

New Section:

WAC 230-06-052 Withdrawing gambling equipment authorization.

If the director or the director's designee withdraws authorization of gambling equipment:

- 1) The director or the director's designee will give the applicant written notice and an opportunity to object to the decision. If the applicant does not agree with the decision, they may file a petition for declaratory order with the commission to be heard as a full review (*de novo*) by an administrative law judge, according to RCW 34.05.240 and chapter 230-17 WAC.
- 2) The director or the director's designee will provide written notice to other impacted licensees who have the gambling equipment after a final decision is made.

WAC 230-06-050 Review of electronic or mechanical gambling equipment.

(1) Persons who wish to submit gambling equipment, supplies, services, or games for our review to verify compliance with chapter 9.46 RCW and Title 230 WAC must pay the application deposit before we perform the review. They must also reimburse us for any additional costs of the review.

(2) We may require manufacturers to submit certain electronic or mechanical gambling equipment for review. The equipment must meet technical standards for compliance, accuracy, security, and integrity. To allow for continued testing and training, staff may keep any equipment submitted for review for as long as the equipment remains in play in Washington. The manufacturers must reimburse us for any costs of the review. The commissioners and commission staff are not liable for any damage to equipment while in our possession.

(3) Licensees must operate equipment identical to the version the director or director's designee approved.

(4) If persons submitting equipment do not agree with the director or director's designee's decision, they may file a petition for declaratory order with the commission to be heard as a full review (*de novo*) by an administrative law judge, according to RCW 34.05.240 and chapter 230-17 WAC.

WAC 230-15-045 Withdrawing card game authorization.

If the director or the director's designee withdraws authorization of a card game:

(1) The director or the director's designee will give licensees written notice and an opportunity to object to the decision. If a licensee files an objection in writing, an administrative law judge will review the decision.

(2) The director or the director's designee will provide written notice to impacted licensees after a final decision is made.