

Santa Clara Pueblo Gaming Commission



Title 31 / Bank Secrecy Act Regulations

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CHAPTER III – MINIMUM INTERNAL CONTROL STANDARDS

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CHAPTER IV – MINIMUM INTERNAL CONTROL STANDARDS

SECTION 18: TITLE 31 / BANK SECRECY ACT

18.1 Purpose. The purpose of these regulations is to require for the Gaming Operation to develop System of Internal Control Standards (“SICS”) for the conduct of Title 31 / Bank Secrecy Act operations that are in compliance with the Compact. The requirements outlined in this Section supplement and are intended to be interpreted and applied to existing Commission regulations Chapter III Minimum Internal Control Standards.

18.2 Authority. The Commission has authority to regulate and to promulgate and enact Regulations pursuant to delegated authority from the Santa Clara Pueblo Tribal Council and the Santa Clara Pueblo Gaming Code. In addition, the Tribal-State Gaming Compact for the regulation of Class III Gaming between the Pueblo of Santa Clara and the State of New Mexico sets out responsibilities to be carried out by the Santa Clara Pueblo Gaming Commission.

18.3 Compliance Committee.

- (1) A Title 31 Compliance Committee shall be comprised of a minimum of two (2) gaming operation employees. The Title 31 Compliance Committee is responsible for coordinating compliance of Title 31 for the gaming operation. This shall include distribution of Title 31 reporting requirement materials, the development of Title 31 employee training programs and the development of Title 31 informational materials for casino employees.
- (2) One committee member shall be designated as the Title 31 Compliance Officer. This person shall be responsible for the presentation of changes of the Title 31 Policies & Procedures to the Commission and serve as the primary contact for the Department of the Treasury and the Internal Revenue Service (IRS).

18.4 Title 31 Compliance Officer Responsibilities.

- (1) The Title 31 Compliance Officer is responsible for reviewing the following for accuracy:
 - (a) Multiple Transaction Log(s) (MTL’s);
 - (b) Negotiable Instrument Log(s) (NIL’s);
 - (c) Patron identification and information (to include the W-9 Form);
 - (d) Cash promotion forms (when applicable to Title 31 reporting); and
 - (e) Any other reportable transactions; and
- (2) Ensuring the following are filed accurately:
 - (a) Currency Transaction Report(s) (CTR’s);
 - (b) Suspicious Activity Report(s) (SAR’s); and
 - (c) Record retention.
- (3) The gaming operation shall have a designated Title 31 Compliance Officer and an alternate.
- (4) The Title 31 Compliance Officer and alternate must have an individual username and password to access all programs employed with FinCEN/BSA.
 - (a) All computer application passwords must remain confidential to the individual user and not be shared.

- (b) Any employee working on a computer/application must do so using their individually assigned credentials.

18.5 Currency Transaction Report (CTR).

- (1) The gaming operation, by way of the Title 31 Compliance Officer, in accordance with 31 CFR Chapter X, shall file a report of each transaction in currency, involving either cash in or cash out, of more than \$10,000 (excluding gaming machine jackpots) during a designated gaming day.
- (2) A CTR report shall be filed by the gaming operation within fifteen (15) days following the day on which the reportable transaction occurred.

18.6 Negotiable Instrument Log (NIL).

- (1) A NIL shall be completed by the Vault for each gaming day. The NIL shall be used to track any check (jackpot check, Comcheck/Quick Cash, personal check, money order, cashier's check, travelers check or Western Union) transaction of \$3,000 or more.
- (2) The Title 31 Compliance Officer shall maintain a NIL for each gaming day.

18.7 Multiple Transaction Log (MTL).

- (1) Cash/chip handling departments must log any cash in or cash out transactions whether they are single or known aggregated amounts (excluding gaming machine jackpots) of \$3,000 or more during a designated gaming day:
 - (a) The employee must obtain a copy of the patron's government issued photo ID and Social Security Card.
 - (i) If the only form of ID available is a Military ID (which cannot be copied, only visually verified) designated management must approve the transaction by signing the MTL.
 - (ii) If the patron cannot provide a Social Security Card, the patron is required to complete a W-9 in its entirety. It is the responsibility of the employee receiving the form to ensure it is completed properly and to verify the SSN indicated on W-9 prior to completing the transaction;
 - (iii) A description of the patron must be completed at the time the identification is obtained.
- (2) If a patron is unable or refuses to provide required identification or complete a W-9, this will result in the employee notifying management, terminating the transaction and the patron forfeiting any winnings towards gross revenue.
- (3) If a patron returns within seven (7) days to provide required information, payment may be given to the patron if all of the following requirements are met:
 - (a) Written approval is obtained from the General Manager (which shall include the reason for the exception);
 - (i) Prior to payout, Surveillance must verify it is the same patron from the terminated transaction; and
 - (ii) The patron must then be logged on the current gaming day's MTL.

18.8 Suspicious Activity Report (SAR).

- (1) Pursuant to 31 CFR §1021.320, the casino shall file with FinCEN, a Suspicious Activity Report (SAR), a report of any suspicious transaction relevant to a possible violation of law or regulation.
- (2) A transaction requires reporting if it involves or aggregates at least \$5,000 in funds or other assets, and the casino knows, suspects, or has reason to suspect that the transaction (or a pattern of transactions of which the transaction is a part):
 - (a) Involves funds derived from illegal activity or is intended or conducted in order to hide or disguise funds or assets derived from illegal activity (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any Federal law or regulation or to avoid any transaction reporting requirement under Federal law or regulation;
 - (b) Is designed, whether through structuring or other means, to evade any requirements of this chapter or of any other regulations promulgated under the Bank Secrecy Act;
 - (c) Has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the casino knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction; or
 - (d) Involves use of the casino to facilitate criminal activity.
- (3) The Title 31 Compliance Officer shall complete and file the SAR with FinCEN within thirty (30) days from the date of detection by the casino of facts that may constitute a basis for filing a SAR (filing may be extended up to sixty (60) days if the subject cannot be identified).
- (4) If the Title 31 Compliance Officer is not available at the time suspicious activity is observed, a member of gaming management shall collect documentation including all supporting statements and submit to the Title 31 Compliance Officer or alternate within twenty-four (24) hours of the incident.
- (5) A copy of the SAR shall be provided to the Commission (via email), and also provided to the Surveillance Department who will maintain record for a minimum of five (5) years.
- (6) A SAR, and any information that would reveal the existence of a SAR, are confidential and shall not be disclosed except as authorized in 31 CFR §1021.320(e).

18.9 Retention of Reports.

- (1) All records, documents or similar materials must be retained for a period of five (5) years and made available upon request to the Commission.
- (2) Documents shall be made available to other departments and/or persons as approved by the Commission.

18.10 Accountability. Accountability for compliance with the 31 CFR Chapter X and the Title 31 program implementation shall ultimately be the burden of the gaming operation's Title 31 Compliance Officer and the General Manager. Failure to correct deficiencies identified during an audit may result in disciplinary action up to and including gaming license suspension or revocation.

18.11 Penalties for Non-Compliance. All employees shall be notified of the potential civil and/or criminal fines and penalties for willfully violating Title 31 (31 CFR Chapter X, FinCEN).

18.12 Official Names.

- (1) Title 31 Compliance Officer must use official names when completing any forms or documents to FinCEN/BSA. Official names include:
 - (a) Casino's Legal Name including the EIN#; and
 - (b) Casino's Trade Names. (If the whole name does not fit in the space provided).
- (2) Failure to use the official names may result in disciplinary action up to and including gaming license suspension or revocation.

18.13 Employee Training.

- (1) The Title 31 Compliance Officer shall be responsible for providing or overseeing training and materials to all new/transfer casino employees in each department, regulation/policy changes, and as requested by gaming management, the Compliance Department, or the Commission. Trainings must be updated in accordance with federal and local regulatory and policy changes. Records of such training shall be kept current and provide to the Commission and/or any other authorized employee upon request.
- (2) All employees must receive yearly training on Title 31 Policies and Procedures, including all specific trainings currently required under the applicable portions of Title 31. This training may be provided on computers or in a classroom setting and should be adjusted to accommodate differing departmental duties. Additional follow up training will be provided to employees upon request.
- (3) The training records shall be kept current and provided to the Commission or other authorized employees upon request. Documentation of formal training shall be recorded for each employee and maintained by the Title 31 Compliance Officer for a minimum of one (1) year on site and then sent to archiving.
- (4) The Title 31 Compliance Officer shall maintain documentation that contains the following information for all employees that have completed Title 31 training: employees name, department and date the training was completed. This spreadsheet must be provided to the Commission or other authorized employees upon request.

18.14 Documents and Corrections.

- (1) All documents, forms and logs must be completed in their entirety.
- (2) A signature is defined as a legible first and last name and gaming license number or the legible first name initial, last name, and gaming license number.

(3) Corrections & Errors:

- (a) All corrections to originally-recorded information shall be made by drawing a single line through the error, writing the correct information above the error and then obtaining legible initials and gaming license numbers of at least two (2) employees who verified the change.
- (b) Any errors detected during a review of casino paperwork by Audit/Compliance may be corrected by circling the error, writing the correct information above the error and providing the initials and badge number of the person making the correction.
- (c) Corrections requested by the gaming operation's Audit Department must be completed by the Title 31 Department within seventy-two (72) hours of receiving the request. The gaming operation's Audit Department must submit requested corrections to financial documents on an exception report. Once the correction is made the report must be placed with the original casino paperwork.

18.15 Department Policies and Procedures

- (1) All policies and procedures must be submitted to the Commission, at least thirty (30) days prior to intended implementation date.
- (2) Any revisions made to a department's policies and procedures (including memos and forms) must be approved by the gaming operation prior to the implementation of such policy.
- (3) The gaming operation must notify the gaming enterprise of any approved policy and procedure revisions.
- (4) The gaming operation must distribute any approved policy and procedure revisions to applicable departments.
- (5) Prior to implementing any proposed "test" phase(s), written authorization must be obtained from the Commission to ensure proposed procedures are compliant with all applicable gaming regulations.
- (6) Each proposed "test" phase must be submitted by the gaming operation to the Commission and shall include the following information:
 - (a) Location(s);
 - (b) Affected department(s); and
 - (c) Dates of testing (beginning/ending).

18.16 Compliance with Tribal Internal Control Standards. The Commission will ensure the Gaming Operation remains in compliance with the TICS. Failure to comply with the TICS is an unsuitable method of operation. The Commission shall provide notification to the Gaming Enterprise or Gaming Operation when a violation is occurring or has occurred and may take enforcement action in accordance with Section 3 of Chapter I of these regulations.

18.17 Final Decision. If at any time the interpretation of these regulations is in question, the decision of the Commission shall be final and non-appealable.