

TITLE 4.
CALIFORNIA GAMBLING CONTROL COMMISSION

**NOTICE OF PROPOSED REGULATORY ACTION AND PUBLIC HEARING
CONCERNING
MINIMUM INTERNAL CONTROL STANDARDS (MICS)
FOR GAMBLING ESTABLISHMENTS
CGCC-GCA-2008-R-3**

NOTICE IS HEREBY GIVEN that the California Gambling Control Commission (Commission) is proposing to take the action described in the Informative Digest. Any interested person, or his or her authorized representative, may present statements or arguments orally or in writing relevant to the action proposed at a public hearing to be held at 1:30 p.m. on November 18, 2008, at 2399 Gateway Oaks Drive, First Floor Hearing Room, Sacramento, CA 95833-4231.

WRITTEN COMMENT PERIOD

Written comments relevant to the proposed regulatory action, including those sent by mail, facsimile, or e-mail, may be submitted to the Commission at any time during the public comment period, or may be received by the Commission at the above referenced hearing. To be eligible for the Commission's consideration, all written comments must be **received at its office no later than 5:00 p.m. on November 18, 2008**. Written comments not submitted at the hearing should be directed to one of the individuals designated in this notice as a contact person. **Comments sent to persons and/or addresses other than those specified under Contact Persons, or received after the date and time specified above, will be included in the record of this proposed regulatory action, but will not be summarized or responded to regardless of the manner of transmission.**

ADOPTION OF PROPOSED ACTION

After the close of the public comment period, the Commission, upon its own motion or at the instance of any interested party, may thereafter formally adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit oral or written testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 19811, 19826, 19827, 19840, 19841, 19920, 19924 and 19930 of the Business and Professions Code; and to implement, interpret or make specific Sections 19826, 19827, 19840, 19841, 19920, 19921, 19924, 19930 and 19943 of the Business

and Professions Code; the Commission is proposing to adopt the following changes to Chapter 7 of Division 18 of Title 4 of the California Code of Regulations:

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

INTRODUCTION:

The California Gambling Control Commission (Commission) is the state agency charged with the administration and implementation of the California Gambling Control Act (Act).¹ The Commission is authorized to adopt regulations governing the operation of gambling establishments (or “cardrooms”) in California.² Specifically, the Commission is mandated to adopt regulations on the subjects enumerated in Business and Professions Code,³ section 19841. Regulations concerning the establishment of minimum policies and procedures by owner licensees to exercise effective control over their internal fiscal and gambling affairs have been prepared in compliance with section 19840 and subdivisions (h) and (i) of section 19841.

SPECIFIC PROPOSAL:

Gambling is the quintessential cash business and internal controls are the primary procedures used to protect the integrity of cardroom funds and games. Internal controls are therefore a vitally important part of properly regulated gambling. In general, the proposed action has been drafted in an attempt to establish uniform procedures and standards to assist the Commission and the Bureau of Gambling Control within the Department of Justice (Bureau) in meeting their oversight responsibilities under the Act, while taking into account the variations in size of gaming operations. Perhaps more importantly, the proposed action is intended to assist cardrooms in safeguarding their assets, protecting patrons and their property, and maintaining the integrity of games and gaming. These regulations establish a baseline for cardroom operation, by requiring that licensees establish and implement written policies and procedures that meet or exceed the prescribed MICS, as they relate to the established size category of the individual licensee. Establishing a baseline standard helps to ensure consistency and uniformity.

EXISTING LAW:

Section 19840 provides, in pertinent part, that “[t]o the extent appropriate, regulations of the Commission ... shall take into consideration the operational differences of large and small establishments.” Subdivision (h) of section 19841 mandates that the Commission’s regulations shall “[p]rescribe minimum procedures for adoption by owner licensees to exercise effective control over their internal fiscal and gambling affairs,” as specified. Subdivision (i) of section 19841 mandates that the Commission’s regulations shall “[p]rovide for the adoption and use of internal audits, whether by qualified internal auditors or by certified public accountants” as a means of “testing and evaluation of other controls” for the purpose of “observing proper compliance with the minimum standards of control prescribed in subdivision (h).”

Current regulations do not specifically address minimum internal control standards.

¹ Business and Professions Code, Division 8, Chapter 4, § 19800 et seq.

² See Business and Professions Code § 19840.

³ All statutory references are to the Business and Professions Code, unless otherwise specified.

EFFECT OF REGULATORY ACTION:

This proposed action will make changes in Chapter 7 of Division 18 of Title 4 of the California Code of Regulations. Regulations addressing minimum internal controls to be exercised by owner licensees to ensure the integrity of their internal fiscal and gambling affairs have been prepared in compliance with Business and Professions Code section 19841. Specifically, Article 3 of Chapter 7 will be amended to incorporate minimum internal control standards (MICS) for gambling establishments as follows:

- I. Adopt Section 12380 which will define “minimum internal control standards” (MICS) for the purpose of Chapter 7, will establish the basic application of MICS in the operation of cardrooms and will make failure to comply with this article a ground for disciplinary action. This section will also establish five specific licensee “tiers” based on a licensee’s number of approved gaming tables, and will contain general definitions of terms used throughout Article 3 in relations to MICS.
- II. Adopt Section 12381 to establish clear and consistent requirements for the establishment by licensees of minimum policies and procedures addressing each major element of operation of their gambling establishments. This section will require the establishment of policies and procedures for MICS, the communication of those policies and procedures to employees, adherence to the established policies and procedures, and the availability of those policies and procedures to the Commission and Bureau. Provisions are included for the Bureau to issue determinations regarding deficiencies and for timely curing those deficiencies. This section also includes basic requirements for record keeping. Finally, licensees in tiers II through V will be required to assign specified duties and responsibilities concerning policies and procedures to a designated member of management.
- III. Adopt Section 12384 to provide for the inclusion in a licensee’s policies and procedures of standards to address the deposit of fees into a secure container and periodic collection of those containers. When patrons of a cardroom engage in controlled gambling, they pay a fee, either per hand or per hour, for playing. This fee – either in regular chips or nondenominational drop-chips – is “dropped” into a “drop box” attached to the gambling table, and the boxes are collected at certain times each day by the cardroom. This is the main source of cardroom revenue and must be both protected (if chips are used) and accurately reported. This section will provide specifications for the construction, use, and basic security of drop boxes. In addition, this section will establish the extent and complexity of these requirements as they apply to the licensee tiers established in Section 12380.
- IV. Adopt Section 12385 to establish the basic requirements for the maintenance and operation of count rooms that must be addressed in a licensee’s policies and procedures. This section includes general specifications for the construction and security of count rooms, and the duties and activities of count room staff. In addition, this section will establish the extent and complexity of these requirements as they apply to the licensee tiers established in Section 12380.

- V. Adopt Section 12386 to establish the basic requirements for the maintenance and operation of cages that must be addressed in a licensee's policies and procedures. This section includes specifications for the construction and security of cages, and the duties and activities of cage staff. In addition, this section will establish the extent and complexity of these requirements as they apply to the licensee Tiers established in Section 12380.
- VI. The proposed action will also require licensees to establish and implement the applicable standards specified in Sections 12384, 12385 and 12386 by a date certain (approximately six months after the effective date of those regulations).

FISCAL IMPACT ESTIMATES

FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES OR COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE:

None.

NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES:

None.

LOCAL MANDATE:

None.

COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH GOVERNMENT CODE SECTION 17561 REQUIRES REIMBURSEMENT:

None.

IMPACT ON BUSINESS:

The Commission has made an initial determination that the adoption of these regulations may have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The following types of businesses would be affected:

- Gambling establishments (Cardrooms) that do not already have internal control standards and/or facilities in place that are in compliance with the minimum standards proposed by these regulations.

The following reporting, recordkeeping or other compliance requirements are projected to result from the proposed action:

1. Maintenance of written policies and procedures for minimum internal control standards.
2. Maintenance of documentation and records of drop collections and drop counts.
3. Maintenance of access logs for the cage.

4. Maintenance of accounting records.
5. Maintenance and storage of video surveillance recordings.
6. Possible remodeling of existing gambling establishments.

The Commission has not considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit such proposals. Submissions may include the following considerations:

- (A) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (B) Consolidation or simplification of compliance and reporting requirements for businesses.
- (C) The use of performance standards rather than prescriptive standards.
- (D) Exemption or partial exemption from the regulatory requirements for businesses.

The rulemaking file includes the facts, evidence, documents, testimony, and/or other evidence that supports this determination.

IMPACT ON JOBS/NEW BUSINESSES:

The Commission has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses, the elimination of jobs or existing businesses, or the expansion of businesses in the State of California.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action, and that are known to the Commission are:

- Printing and maintenance of new written policies and procedures for those gambling establishments not already in compliance with the proposed minimum standards.
- Creation, maintenance and storage of documentation, records and logs for those gambling establishments not already in compliance with the proposed minimum standards.
- Acquisition and maintenance of video surveillance systems, and storage and maintenance of surveillance recordings for those gambling establishments not already in compliance with the proposed minimum standards.
- Possible remodeling of existing buildings for those gambling establishments that do not already have facilities in compliance with the proposed minimum standards.

EFFECT ON HOUSING COSTS:

None.

EFFECT ON SMALL BUSINESS:

The Commission has determined that the proposed regulatory action may affect small businesses if any licensed gambling establishment qualifies as a small business and does not already have internal control standards in place which satisfy the minimum standards proposed by these regulations.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Commission must determine that no reasonable alternative considered by the Commission or that has otherwise been identified and brought to the attention of the Commission would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

INITIAL STATEMENT OF REASONS, INFORMATION AND TEXT OF PROPOSAL

The Commission has prepared an Initial Statement of Reasons and the exact language for the proposed action and has available all the information upon which the proposal is based. Copies of the language and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Commission at 2399 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833-4231.

AVAILABILITY AND LOCATION OF THE RULEMAKING FILE AND THE FINAL STATEMENT OF REASONS

All the information upon which the proposed action is based is contained in the Rulemaking File that will be available for public inspection and copying at the Commission's office throughout the rulemaking process. Arrangements for inspection and/or copying may be made by contacting the backup contact person named below.

Upon its completion, the Final Statement of Reasons will also be available. A copy of the Final Statement of Reasons may be obtained, once it has been prepared, by making a written request to one of the contact persons named below or by accessing the Commission's Web site listed below.

CONTACT PERSONS

All comments and inquiries concerning the substance of the proposed action should be directed to the following **primary** contact person:

James B. Allen, Regulatory Actions Coordinator
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231
Telephone: (916) 263-4024
Fax: (916) 263-0452
E-mail: Jallen@cgcc.ca.gov

Requests for a copy of the Initial Statement of Reasons, proposed text of the regulation, modified text of the regulation, if any, or other technical information upon which the proposed action is based should be directed to the following **backup** contact person:

Joy Calkin, Office Technician
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231
Telephone: (916) 263-0700
Fax: (916) 263-0452
E-mail: Jcalkin@cgcc.ca.gov

WEB SITE ACCESS

Materials regarding this proposed action are also found on the Commission's Web site at www.cgcc.ca.gov.