

**State of California
Office of Administrative Law**

In re:
California Gambling Control Commission

NOTICE OF APPROVAL OF REGULATORY
ACTION

Regulatory Action:

Government Code Section 11349.3

Title 4, California Code of Regulations

OAL File No. 2011-1107-03 S

Adopt sections: 12349
Amend sections:
Repeal sections:

The California Gambling Control Commission proposed to adopt section 12349 of title 4 of the California Code of Regulations to provide for issuance of interim licenses for continued operation of gambling enterprises following certain events that result in a change in the ownership or in the control of the ownership interest.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 1/20/2012.

Date: 12/21/2011

RAIG TARPENNING

Craig S. Tarpenning
Senior Staff Counsel

For: DEBRA M. CORNEZ
Assistant Chief Counsel/
Acting Director

Original: Terri A. Ciau
Copy: James Allen

REGULAR REGULATIONS SUBMISSION

STATE OF CALIFORNIA--OFFICE OF ADMINISTRATIVE LAW
NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z. 2011-0705-02	REGULATORY ACTION NUMBER 2011-1107-035	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

DEC 21 PM 1:45

2011 NOV -7 PM 3:49
OFFICE OF ADMINISTRATIVE LAW

AGENCY FILE NUMBER (if any)
CGCC-GCA-2011-01-R

AGENCY WITH RULEMAKING AUTHORITY
California Gambling Control Commission

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE	NOTICE REGISTER NUMBER 2011-1107-035	PUBLICATION DATE 7-15-2011

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Interim Gambling Licenses	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) N/A
---	---

2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT §12349
	AMEND
TITLE(S) 4	REPEAL

3. TYPE OF FILING

<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify) _____	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

September 29, 2011 - October 14, 2011

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input checked="" type="checkbox"/> Effective 30th day after filing with Secretary of State	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify) _____
---	--	---	--

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON James Allen	TELEPHONE NUMBER (916) 263-4024	FAX NUMBER (Optional) (916) 262-0499	E-MAIL ADDRESS (Optional) Jallen@cgcc.ca.gov
----------------------------------	------------------------------------	---	---

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 11-3-11
TYPED NAME AND TITLE OF SIGNATORY STEPHANIE SHIMAZU, Chairperson	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

DEC 21 2011

Office of Administrative Law

1 CALIFORNIA GAMBLING CONTROL COMMISSION

2 INTERIM GAMBLING LICENSES

3 CGCC-GCA-2011-01-R

4 ORDER OF ADOPTION

5
6 The California Gambling Control Commission hereby adopts the following changes in its
7 regulations contained in Division 18 of Title 4 of the California Code of Regulations:

8
9 CHAPTER 6. GAMBLING LICENSES AND APPROVALS FOR GAMBLING ESTABLISHMENTS AND
10 OWNERS; PORTABLE KEY EMPLOYEE LICENSES.

11
12 ARTICLE 2. GAMBLING LICENSES.

13 **§ 12349. Interim Licenses for Continued Operation Following Qualifying Events; Criteria;**
14 **Processing Times; Conditions.**

15 (a) For the purposes of this section, the following definitions apply:

16 (1) “Applicant” means a new owner of a gambling enterprise or individual in control of an
17 ownership interest, who makes application to the Commission for an interim gambling license
18 pursuant to subsection (c).

19 (2) “Interim gambling license” means a license issued by the Commission which permits the
20 interim operation of a gambling enterprise following a qualifying event, during which time the
21 Commission processes and considers an application for a regular gambling license from a new
22 owner.

23 (3) “New owner” means an individual who is a trustee (other than a trustee in bankruptcy),
24 beneficiary, successor in interest, or security interest holder who becomes an owner of, or
25 obtains an ownership interest in a gambling enterprise as a result of a qualifying event.

26 (4) “Qualifying event” means an event, such as those specified in Business and Professions
27 Code section 19841, subdivision (s), that results in a change in the ownership or in the control of
28 the ownership interest of a gambling enterprise and prevents the gambling enterprise from
29 conducting gambling operations because the new owner or individual in control does not hold a
30 valid gambling license for that gambling enterprise, as required by Business and Professions
31 Code sections 19850, 19851, 19852 or 19855. A qualifying event does not include any planned

1 or negotiated transaction where a current licensee retains the capacity and authority to continue
2 gambling operations until approval of the transaction and issuance of any new gambling license
3 by the Commission (e.g., a sale, the transfer of shares, incorporation, etc.).

4 (5) “Regular gambling license” means a gambling license issued by the Commission
5 pursuant to Section 12342.

6 (b) Subject to the provisions of the Act, this division and Title 11, Division 3, of the
7 California Code of Regulations, a gambling enterprise may continue gambling operations
8 following a qualifying event only if an owner or a licensed person affiliated with the gambling
9 enterprise has control of the gambling operations, the Commission is notified of the qualifying
10 event within 10 calendar days of that event, and the new owner, or individual in control of the
11 ownership interest, submits a request for an interim gambling license to the Commission as
12 provided in subsection (c). Gambling operations shall be immediately terminated if the
13 Commission denies an applicant’s request for an interim gambling license, or approves an
14 applicant’s request to withdraw that application, and no other person has applied for or been
15 granted an interim or regular gambling license for that gambling enterprise.

16 (c)(1) In order to be considered for an interim gambling license, a new owner, or individual
17 in control of the ownership interest, must submit all of the following within 30 calendar days of a
18 qualifying event:

19 (A) All forms, fees, and deposits for a regular gambling license application required by
20 Sections 12341, 12342, and Title 11, CCR, Section 2037;

21 (B) A signed written request for an interim gambling license that describes the qualifying
22 event and identifies the person who will control and oversee gambling operations; and

23 (C) A copy of any document that evidences the succession to the owner-licensee’s interest in
24 the gambling enterprise, which may include, as applicable, any of the following:

25 1. In the case of the death of an owner-licensee, a copy of the death certificate; or

26 2. In the case of the incapacity of an owner-licensee, a copy of any document that evidences
27 the owner-licensee’s incapacity and the appointment of a conservator; or

28 3. In the case of insolvency, foreclosure or receivership of a gambling enterprise, a copy of
29 any pertinent agreement, note, mortgage, lease, deed of trust, and any document, notice or order
30 that evidences the insolvency, foreclosure or receivership.

31 (2) The time period for submission specified in paragraph (1) may be extended, at the

1 discretion of the Commission or the Executive Director, if the new owner, or individual in
2 control of the ownership interest, is able to provide satisfactory evidence of any facts or
3 circumstances that interfere with timely submission, including but not limited to, a lack of actual
4 knowledge of the occurrence of the qualifying event, and that all appropriate and reasonable
5 actions have been taken to overcome those impediments.

6 (d) A request for an interim gambling license shall be ancillary to and concurrent with an
7 application for a regular gambling license. The application for a regular gambling license shall
8 be processed in accordance with Section 12342. The request for an interim gambling license
9 shall be processed as follows:

10 (1) The maximum time within which the Executive Director shall notify the applicant in
11 writing that a request for an interim gambling license is complete and accepted for filing, or that
12 a request is deficient and identifying what specific additional information is required, is 10
13 calendar days after receipt of the request. If additional information is required, the Executive
14 Director shall allow the applicant 10 calendar days to submit the additional information. If the
15 requested information is not supplied within 10 calendar days, the request for an interim
16 gambling license shall be considered abandoned and no further action shall be taken on the
17 request. A gambling enterprise shall immediately terminate gambling operations if a request for
18 an interim gambling license is abandoned by the applicant and no other person has applied for or
19 been granted an interim or regular gambling license for that gambling enterprise.

20 (2) Once the Executive Director determines that a request for an interim gambling license is
21 complete, the matter shall be set for consideration at a noticed Commission meeting. Pursuant to
22 the provisions of the Act and this division, the Commission shall grant or deny the request for an
23 interim gambling license within 60 calendar days after receipt of the request. A request for an
24 interim gambling license shall be denied by the Commission if the applicant is disqualified for
25 any reason set forth in section 19859 of the Business and Professions Code.

26 (e) All of the following criteria shall apply to a request for an interim gambling license:

27 (1) In the event a regular gambling license is issued to an applicant prior to action by the
28 Commission on any related request for an interim gambling license, the request for an interim
29 gambling license shall be deemed withdrawn and no further action shall be taken on that request.

30 (2) If a request for withdrawal of an application for a regular gambling license is submitted
31 before the Bureau's recommendation is made regarding that application, any related request for

1 an interim gambling license shall be deemed withdrawn and no further action shall be taken on
2 that request.

3 (3) Denial of a request for an interim gambling license, or cancellation of an interim
4 gambling license, shall not suspend or otherwise affect the processing and review of the related
5 application for a regular gambling license.

6 (f) All of the following conditions shall apply to an interim gambling license granted by the
7 Commission:

8 (1) Upon issuance or denial of a regular gambling license, any related interim gambling
9 license shall become invalid.

10 (2) The term of an interim gambling license shall be determined by the Commission and shall
11 be based in part on the time necessary to process and consider the application for a regular
12 gambling license.

13 (3) Issuance of an interim gambling license does not prejudice or obligate the Commission to
14 grant a regular gambling license. Issuance of a regular gambling license is subject to the results
15 of a complete background investigation by the Bureau, the conduct of the applicant during the
16 term of the interim gambling license, and final approval of the Commission pursuant to Sections
17 12342 and 12346.

18 (4) Issuance of an interim gambling license does not create a vested right in the holder to
19 either an extension of the interim gambling license or the issuance of a regular gambling license.

20 (5) Issuance of an interim gambling license does not change the qualification, or
21 disqualification, requirements for a regular gambling license under the Act or this division.

22 (6) The holder of an interim gambling license shall provide the Commission and the Bureau
23 with the name of any newly-appointed key employee within 30 days following the appointment
24 of that key employee. Within 30 days of its occurrence, the holder of an interim gambling license
25 shall also provide the Commission and the Bureau with the name of any person who provides
26 any service or property to the gambling enterprise under any arrangement whereby the person
27 receives payment based on the earnings, profits or receipts of the gambling enterprise.

28 (7) The holder of an interim gambling license shall pay all applicable annual fees associated
29 with a regular gambling license.

30 (8) The holder of an interim gambling license shall comply with the provisions of the Act,
31 this division and Title 11, Division 3, of the California Code of Regulations.

1 (9) During the term of an interim gambling license, any proceeds derived from the operation
2 of the gambling enterprise that would otherwise be payable to a new owner shall be held in an
3 escrow account and not disbursed until the disposition of ownership interest has been resolved
4 and received Commission approval and all owners of the gambling enterprise have been
5 approved by the Commission for a regular gambling license pursuant to Section 12342. This
6 paragraph shall not prevent the payment of any taxes, operating expenses, preexisting
7 obligations, preexisting dependant support or any other distribution of proceeds that is approved
8 by the Commission.

9 (10) The Commission, in its sole discretion and on an individual case-by-case basis, may
10 impose any additional conditions necessary to address particular factual situations related to a
11 request for an interim gambling license.

12 (g) If, as a result of a qualifying event, a new owner intends to sell his or her interest in the
13 gambling enterprise without first obtaining an interim or regular gambling license, he or she shall
14 provide written notification to the Commission of that intent within 30 calendar days of that
15 qualifying event.

16 (h) If, during the term of an interim gambling license, the Executive Director determines that
17 the holder of that license is disqualified for any of the reasons set forth in Business and
18 Professions Code section 19859, or may have violated one or more of the conditions under which
19 the interim gambling license was issued, the Executive Director shall prepare and serve on the
20 license holder an order to show cause as to why the interim gambling license should not be
21 cancelled. The holder of the interim gambling license shall be given 30 days to respond in
22 writing. After receipt of the license holder's response, or if the license holder fails to respond
23 within the specified time, the matter shall be set for consideration at a noticed Commission
24 meeting. The interim license holder may address the Commission by way of an oral or written
25 statement, or both, at the Commission meeting. If the Commission acts to cancel the interim
26 gambling license, the license holder may request an evidentiary hearing, in writing, either at that
27 meeting or within 10 calendar days following that meeting. Any evidentiary hearing shall be
28 conducted in accordance with the applicable provisions of subsection (b) of Section 12050 of this
29 division.

30 (i) This section shall not preclude the Commission from issuing temporary licenses pursuant
31 to Business and Professions Code section 19824, subdivision (f).

1 Note: Authority cited: Sections 19811, 19823, 19824, 19825, 19826, 19840, 19841, 19853 and 19870, Business
2 and Professions Code. Reference: Sections 19824, 19841(s), 19850, 19851, 19855, 19857, 19859, 19869 and
3 19870(b), Business and Professions Code.

4

5 ///

6 ///

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32