

TITLE 4.
CALIFORNIA GAMBLING CONTROL COMMISSION

NOTICE OF PROPOSED REGULATORY ACTION

**UPDATES AND AMENDMENTS TO APPLICATION WITHDRAWALS AND
ABANDONMENTS, AND HEARING PROCEDURES**

CGCC-GCA-2018-04-R

NOTICE IS HEREBY GIVEN that the California Gambling Control Commission (Commission) is proposing to take the action described in the Informative Digest after consideration of all relevant public comments, objections, and recommendations received concerning the proposed action. Comments, objections, and recommendations may be submitted as follows:

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission at any time during the 45-day public comment period, which closes on **February 8, 2019**. Written comments relevant to the proposed regulatory action may be sent by mail, facsimile, or e-mail, directed to one of the individuals designated in this notice as a contact person. 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 February 8, 2019**. **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.**

PUBLIC HEARING

The Commission has not scheduled a public hearing on this matter. Any interested person, or his or her authorized representative, may request a hearing pursuant to Government Code section 11346.8. A request for a hearing should be directed to the person(s) listed under Contact Persons no later than 15 days prior to the close of the written comment period.

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, 19823, 19824, 19825, 19840, 19841, 19853, 19854, 19869, 19870, 19871, 19872, 19893 and 19951, of the Business and Professions Code, and sections 11400.20, 11410.40, 11415.10, and 11415.20 of the Government Code; and to implement, interpret or make specific sections 19800, 19805, 19811, 19816, 19821, 19822, 19823, 19824, 19824.5, 19825, 19826, 19827, 19834, 19856, 19859, 19867, 19868, 19869, 19870, 19871, 19872, 19876, 19880, 19881, 19882, 19883, 19890, 19891, 19892, 19930, 19951, and 19984 of the Business and Professions Code and sections 11425.10, 11430.10, 11430.20, 11430.30, 11430.50, 11430.60, 11512, 11517 and 11521, of the Government Code, the Commission is proposing to adopt the following changes to Chapter 1 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 or GCA).¹ Under the Act, the Commission is required to approve, condition, or deny an application for license or other approval at a meeting [evidentiary hearing] where certain provisions must be provided. The Commission previously adopted regulations under California Code of Regulations, Title 4, Division 18, sections 12006 to 12068 concerning the procedures for evidentiary hearings in 2014. Modifications are proposed to address discrepancies and ambiguities, and provide additional clarity on certain topics. These modifications include, for instance, guidance on hearing notices, interim renewal licenses, notice of defense forms, default decisions, reconsideration requests, and divestiture provisions.

EXISTING LAW:

Section 19825 of the Business and Professions Code² provides authority for the Commission to elect to utilize the administrative procedures act in place of a hearing or meeting of an adjudicative nature.

Section 19870, subdivision (a) provides authority for holding evidentiary hearings, and states that “the Commission, after considering the recommendation of the chief and any other testimony and written comments as may be presented at the meeting, or as may have been submitted in writing to the commission prior to the meeting, may either deny the application or grant a license to an applicant who it determines to be qualified to hold the license.”

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

² All statutory references hereinafter are to the Business and Professions Code, unless otherwise specified.

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Section 19871, subdivision (a) provides authority for promulgating regulations pertaining to the evidentiary hearing process, and provides a list of items that must be part of the process by stating that “[t]he Commission meeting described in section 19870 shall be conducted in accordance with regulations of the Commission...”

EFFECT OF REGULATORY ACTION:

This proposed regulation has been prepared to implement sections 19869, 19870, 19871 and 19872 by providing a clear structure for the consideration of applications by the Commission that provides both flexibility to the applicant and ensures that the Commission is able to review any information it needs in order to determine if an applicant is a person of good character, honesty and integrity. This regulation establishes clear direction by identifying the steps in the process. Providing clarity helps to ensure consistency and uniformity. The ability to provide a clear procedure for the consideration of information is a vitally important part of ensuring that the Commission makes informed decisions and furthers the State’s interest in fairly and effectively regulating gambling.

ANTICIPATED BENEFITS OF PROPOSED REGULATION:

This proposed action will have the benefit of providing additional clarity on the hearing process by more fully identifying the steps and requirements, correcting ambiguities and filling gaps, and providing clear guidance to the Commission, the Bureau, and the applicant, while protecting the applicant’s due process and procedural rights. This proposed action will further provide the Commission and Bureau with a more complete process to follow when processing and reviewing applications that allows each organization to understand their various roles. The applicant will benefit by better understanding the process under which his, her, or its application will be considered, including how failure to participate in the process can affect his, her, or its application and other possible actions that can be taken by the Commission.

SPECIFIC PROPOSAL:

This proposed action will make changes within Division 18 of Title 4 of the California Code of Regulations, as follows:

A general change has been made in the proposal to replace the word “shall” with other words less subject to interpretation.

CHAPTER 1. GENERAL PROVISIONS

ARTICLE 1. DEFINITIONS AND GENERAL PROCEDURES

Amend Section 12002. Definitions.

1. Subsection (h) would add clarity to the definition “Chief” as provided in Business and Profession Code section 19805, subdivision (d). This definition adds to the term “Chief of the Bureau.” This works in conjunction with the definition of Bureau in subsection (e) by clarifying that the Bureau is the entity within the Department that is responsible for fulfilling the obligations imposed upon the department by the Act.

2. The current subsections (h) through and including (aa) will be renumbered as (i) through and including (ab), accordingly.

Amend Section 12006. Service of Notices, Orders and Communications

This section describes how the Commission will communicate with applicants and is the default manner for all notices.

1. Subsection (a) is modified to allow for notices to be provided by first class mail and registered mail in addition to certified mail.
2. Subsection (b) is replaced with a new provision added to provide flexibility when providing notice for applications, licensees, and designated agents who request in writing to receive notices via email.
3. Subsection (c) is added to hold the contents of former subsection (b) and modified to allow notices to be effective upon “transmission.”

Amend Section 12012. Ex Parte Communication

This section addresses and defines *ex parte* communications. The Act³ imposes prohibitions on communication between “Members of the Commission” and an applicant or an agent of an applicant under certain conditions, however these prohibitions are ambiguous. Section 12012 adds clarity and guidance regarding prohibited communications to members of the Commission, employees of the Commission, Bureau staff, the applicant, and interested parties. The word “issued” is replaced in subsections (b) & (c) with “submitted” as parties submit documents to the Commission who in turn issues licenses, approvals, or notices of hearing. Also “and” is added to subparagraph (d)(7)(B) to clarify the intent of the section as being a list of required elements. This is also consistent with other changes throughout the regulations. These are non-substantive changes.

1. Subsection (d)(3) is modified to make clear that information or documents provided by an applicant’s designated agent are included with those from an applicant when determining if the exclusion from the *ex parte* definition applies.
2. Subsection (d)(6) is added to make clear that communications between an advisor and a member of the Commission, by themselves, are not *ex parte* communications.

Amend Section 12014. Subpoenas

The Act requires evidentiary hearings where the Commission may take testimony from witnesses under oath. This section provides the guidance and authority for how witnesses may be compelled to testify at evidentiary hearings. The only change in this section is the usage of the word “shall” which is replaced with more appropriate words.

³ Specifically, section 19872

Amend Section 12015. Withdrawal of Applications

The Act's application process can be lengthy, especially for those applying to be owners of a cardroom, and requires a significant investment in time and funds for the applicant, the Bureau, and the Commission. If at any point in the process, the applicant no longer wishes to proceed with the application, it is beneficial to all parties to have a procedure by which the application process may be ended. The Act, in section 19869, provides for a request to withdraw an application and differentiates between a withdrawal granted "with prejudice" and one granted "without prejudice."

1. Subsection (a) is modified to make clear that a designated agent may make a request on behalf of an applicant to withdraw an application.
2. Subsection (f) is modified to restructure the section to make clear that an applicant does not withdraw an application, but rather the Commission approves a withdrawal request.

Amend Section 12017. Abandonment of Applications

This section provides for the abandonment of applications under limited specified circumstances. The word "issued" is replaced with "submitted."

1. Section (a)(1)(B) is modified to allow designated agents to provide information to the Bureau on the applicant's behalf.
2. Section (b)(1) is modified to clarify that the Bureau makes the recommendation for approval or makes no recommendation.
3. Section (c) is modified in two ways. First, the sentence is restructured to be more consistent in syntax to (b)(1). Second, the last clause of the section is stricken as unnecessary.
4. Section (d) is modified to replace "unexpended" with "unused" and "possible" is replaced with "available."
5. Section (e) is modified to replace "their" with "his, her, or its" application to be consistent with the same language as used elsewhere in Section 12017. Additionally, this section is modified to make clear that the Commission deems an application abandoned, rather than an applicant abandons an application.

Amend Section 12035. Issuance of Interim Renewal License

This section provides for the issuance of interim renewal licenses. Interim renewal licenses effectively extend a current approval to allow for an evidentiary hearing to occur without an applicant losing that approval prior to Commission action. By holding this interim renewal license, an applicant is responsible for any existing conditions and for those fees, costs, and procedures normally required of a similarly situated applicant/licensee.

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1. Subsection (a) is modified to make it clear that the Commission will also issue an interim renewal license for work permits, and other approvals involving a finding of suitability.
2. Current subsection (b) is moved to a new subsection (c). The last sentence of former subsection (b)(2) is moved to a new subsection (b) and expanded upon. This new subsection (b) more clearly explains the process for how interim renewal license holders will be able to obtain new interim renewal licenses in the event the evidentiary hearing process will not be concluded within two years which will reduce uncertainty and confusion in the process.
 - a. Subdivision (1) explains that applicants must submit a new application for the new interim renewal license through a process similar to the one for the application pending considering at the evidentiary hearing including the same forms, fees, costs, and related requirements.
 - b. Subdivision (2) is added to require applicants for a new interim renewal license to provide an update to the Commission on why the hearing process has not concluded in the previous two-year period. It also requires them to work with the Complainant if possible. In the event that they do not provide a reasonable justification, the Commission may set the hearing at the earliest possible opportunity including retracting any application referred to an APA hearing. The requirement for an update no later than ten days in advance of Commission consideration is to be consistent with the Commission's obligations for noticed public meetings pursuant to the Bagley-Keene Open Meeting Act.
3. Subsection (c) is language moved from the former subsection (b).
4. Subsection (c)(2) is modified to clarify a work permit or other approval involving a finding of suitability, as well as an interim renewal license may serve as the starting point for the term of an interim renewal license.
5. Subsection (b)(4) is re-lettered (d). In addition, the section is modified to clarify that the issue date will also apply to any issued work permit or other approval.
6. Subsection (b)(5) is relettered to (e).
7. Subsection (b)(6) is relettered to (f).

ARTICLE 2. PROCEDURES FOR HEARINGS AND MEETINGS ON APPLICATIONS

Amend Section 12050. Bureau Recommendation and Information

The Act, in subdivision (a) of section 19826, allows the Bureau to recommend the denial or limitation, conditioning, or restriction of any license, permit, or approval, after the completion of a background investigation. This section details the manner in which any recommendation is provided to the applicant and how the information may be considered by the Commission. The

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word “issued” is replaced with “submitted” to be more consistent with other changes throughout the regulations.

1. Paragraph (a)(2) is modified to reference paragraph (7) of subsection (d) of Section 12012.
2. Section (b) is modified to shorten the subsection into one sentence and eliminate redundancy and ambiguity.

Amend Section 12052. Commission Meetings; General Procedures; Scope; Rescheduling of Meeting

This section provides general procedures regarding the hearing process. The title is modified to add a reference to the notice process which is provided under subsections (c)(1) and (c)(2).

1. Subsection (c)(1) is modified to add a reference to section 12054 to make clear the specific type of meeting being referenced in the notice.
2. Subsection (c)(1)(A)(2) is modified to add “consideration of the” before application.
3. Subsection (c)(2)(E) is modified to include a new version of the Notice of Defense Form (CGCC-ND-002)(Rev. 12/18). This updated form is provided to the applicant to complete, and once returned to the Bureau and Commission, provides important guidance to the Commission concerning the evidentiary hearing process. The applicant may accept any proposed conditions, waive their participation in the evidentiary hearing, or may indicate their interest in continuing and participating in an evidentiary hearing. Should the applicant waive participation in their evidentiary hearing, the subsection references new section 12057 which discusses how the Commission may choose to consider the application. The modified form further clarifies whether the applicant understands English and the form or if they need to have an interpreter read and explain the form or if they need an interpreter at the hearing.

Should the applicant indicate a desire to participate in the hearing, a space is provided where an attorney’s information can be provided to the Commission and Bureau. This changes the term “counsel” to “attorney” to better reflect the role of the applicant’s legal representative at the hearing and distinguishes it from a lay representative. It also provides the attorney the option of receiving further Commission notices related to the hearing via email.

The form is additionally modified to provide for similar information from the applicant so that the Commission and Bureau can have the most up-to-date contact information for the applicant. The same option to receive notices via email is given to the applicant. An applicant may also confirm to the Commission that they will have the assistance of a lay representative at the hearing which is important for the Commission and Complainant in preparing for any prehearing conference and hearing.

4. Subsection (c)(F) is modified to shorten the section and make a reference to the new section 12057.

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5. Subsection (d) is modified to change the wording to be consistent with other edits in the regulation package.

Amend Section 12054. Consideration at Regular (Bagley-Keene) Commission Meetings

This section provides procedural guidance by laying out some of the various decisions the Commission may make at a regular non-evidentiary meeting regarding an application.

1. Subsection (a)(2) is modified to strike “when” which is merely a modification to syntax without substantive effect. This section also adds “or retract” to clarify that the Commission may retract the referral of an application to an evidentiary hearing.
2. Subsection (a)(3) is modified to clarify that the Commission is acting on applications for renewals.
3. Subsection (a)(7) is modified to replace “accusatory pleading” with the word “accusation.”
4. A new subsection (a)(8) is added to make clear that the Commission can issue a default decision pursuant to new section 12057 at regular Commission meetings.
5. A new subsection (a)(9) is added to make clear that the Commission may consider reconsideration requests pursuant to section 12064 at a regular Commission meeting.
6. Subsection (b) is modified to restructure the section to make clear that the Commission’s denial of a request to withdraw an application, as well as a finding of abandonment, does not afford an applicant an opportunity to have an evidentiary hearing to challenge that determination. Rather the applicant’s procedural path is to have an evidentiary hearing on the underlying application.

Amend Section 12056. Evidentiary Hearing

This section defines the manner by which the Commission or Executive Director determines between an APA and GCA evidentiary hearing format once the Commission has elected to hold an evidentiary hearing. Additional procedural information is also provided.

1. Subsection (a) is modified to replace “advocates” with “an advocate” to improve the syntax of the sentence.
2. A new subsection (d) is added to make clear that the Commission retains authority to control the path an application takes through the evidentiary hearing process. This language is moved from section 12060 with clarifying edits.

Adopt Section 12057. Default Decisions and Uncontested Applications

This proposed action adds a new section which expands upon current regulations which provide for default decisions through the application of the Notice of Defense, CGCC-ND-002 (Rev. 12/18) and Section 12052(c)(2)(F). The Commission possesses the authority to issue default

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decisions at various stages of the application process based upon its statutory authority under sections 19824, 19825, 19870 and regulatory authority under Section 12052. This section expands upon those references and provides clear guidance on the default process making it more explicit and transparent so applicants can be informed of the significance of their actions or lack of action.

1. New subsection (a) makes clear to applicants that when the applicant fails to submit a notice of defense according to the timelines on the form, waives the right to an evidentiary hearing, or fails to attend an evidentiary hearing, the Commission may adjudicate the application by default.
2. New Subsection (b) provides the possible outcomes to an applicant when the Commission adjudicates an application by default. These outcomes can include 1) the Commission issuing a default decision upon the application and any other documents the Commission has been or will be provided prior to the decision being issued, or without applicant participation 2) the Commission continuing forward with an evidentiary hearing to gather evidence before issuing a decision.
3. New Subsection (c) provides that the Commission may reschedule a GCA hearing when an applicant fails to attend in addition to the options provided in subsection (b).
4. New subsection (d) alters the time frames required under Section 12060, subsections (a) & (b), for notices of evidentiary hearings when the Commission is considering a default decision or scheduling a hearing without applicant participation.
5. New subsection (e) follows up on the modification made to section 12054 that the Commission may consider default decisions at regular non-evidentiary hearing meetings. Presently, default decisions are considered at an evidentiary hearing which is run simultaneously with a non-evidentiary meeting. This edit allows the Commission to consider the default decision without the possible need for additional procedures required for full evidentiary hearings. This section also preserves the option that default decisions may be considered at full evidentiary hearings which preserves Commission discretion to act on applications in a manner it deems appropriate.
6. New subsection (f) makes it clear that when the Commission issues a default decision on an application, that applicant may follow the same procedures for requesting reconsideration as are available to normal evidentiary hearings and decisions.

Amend Section 12058. APA Hearings

This section provides procedural guidance for when the Commission or Executive Director elects to hold the evidentiary hearing through the APA. Subsection (e) is modified to make clear that the APA hearing will proceed through the normal process unless and until the Executive Director or the Commission approves retracting the referral. This edit replaces the language of cancellation or a continuance as was previously included which unintendedly implied the Commission had control over the APA process beyond a referral and retraction.

Amend Section 12060. GCA Hearings

This section implements the evidentiary hearing process pursuant to sections 19870 and 19871. This process provides a clear method for the applicant to show the Commission that he, she, or it meets the requirements of the Act and is of good character, honesty and integrity.

1. Subsection (a) is modified to remove the last sentence and move it with clarifying modifications to section 12056(d).
2. Subsection (c) is modified in two ways. First, support staff is added to those that are precluded from communicating upon the merits of an application. Second, this section is modified to remove the reference to “information or documents” which could be interpreted as precluding procedural communications and the provision of jurisdictional documents in advance of a hearing.
3. Subsection (e) is modified to add a reference to section 12056(b) which reiterates the Bureau’s and Commission’s responsibility to protect certain confidential information from disclosure.
4. Subsection (f)(1)(D) is modified to expressly provide for stipulations on evidence and not merely facts in the Bureau Report.

Subdivision (f)(1)(E) is relettered to subdivision (F) and a new subdivision (E) is created which expressly authorizes the Presiding officer to provide for offsite livestreaming appearances of parties and witnesses.

5. Subsection (i) is modified to reword the burden of proof requirement.
6. Subsection (j) is modified to add a provision providing that lay representatives may assist an applicant in a hearing, but are not authorized to serve as the applicant’s attorney.
7. Subsection (k) is modified by eliminating the word “own.”
8. Subsection (l) is modified by the elimination of a comma.

Amend Section 12062. Issuance of GCA Hearing Decisions

This section describes the procedural method and requirements by which the Commission prepares and issues its decision following a GCA evidentiary hearing.

1. Subsection (a) is modified and combined with subsection (b) to join the previously identified 30 and 45 day periods.
2. Subsection (c) and (d) are relettered to subsection (b) and (c) respectively.

Amend Section 12064. Requests for Reconsideration

This section defines the procedure by which an applicant can request reconsideration from the Commission after an evidentiary hearing but before any decision becomes final.

1. Subsection (a) is modified to move the provision requiring a request for reconsideration be made within 30 calendar days to a new paragraph (2) of subsection (a).
 - A new paragraph (1) would move a requirement that the request for reconsideration be made to the Commission and copied to the Bureau. This current requirement is modified to provide the Bureau a 10-day time limit to provide a response to the request for reconsideration.
 - A new paragraph (2) would move the requirement that a request for reconsideration be made within 30 calendar days from subsection (a). This provision is clarified to mean that a request for reconsideration must be received within 30 days. Additionally the moved provision is modified to replace the word “later” with “earlier.”
2. Subsection (b) is modified to swap the term “reasons” with the term “good cause” which establishes a basis upon which the request must be made. In addition, the provision requiring that the request be copied to the Bureau is moved to new paragraph (1) of subsection (a).
3. Option 1 – Executive Director Determination

Option 1 would provide that the Executive Director will determine whether a request for reconsideration states good cause and should be placed on the Commission’s agenda for consideration. To provide for this determination, the text is revised as follows:

 - (A) Paragraph (2) of subsection (b) is revised to change the term “good cause” to “reasons.” In addition, the phrase “the Commission may decide, in its sole discretion” is removed.
 - (B) Subsection (c) is revised to require the Executive Director to determine whether a request for reconsideration states “good cause.” In addition, this provision is revised to include the Complainant in the notice requirement.
 - (C) Subsection (d) is revised to make clear that the decision is stayed from the time of the request to either the point the Executive Director determines the request does not state good cause, or if it does state good cause, when the Commission grants or denies the request for reconsideration.
4. Option 2 – Commission Determination

Option 2 would remove the Executive Director from determining whether a request for reconsideration is valid and instead places all requests for reconsideration before the Commission. This option preserves the Commission’s discretion on its decisions and allows the Commission to be more directly involved in the reconsideration process. To provide for this determination, the text is revised as follows:

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- (A) Paragraph (2) of subsection (b) is revised to change the term “good cause” to “reasons.” Specifically, “good cause” includes those items under paragraph (2) as well as the reasons under paragraph (1).
 - (B) Subsection (c) is revised to remove the Executive Director from the reconsideration process. In addition, this provision is revised to include the Complainant in the notice requirement.
 - (C) Subsection (d) is not revised.
5. New subsection (f) is added to specify that when the Commission grants reconsideration, the underlying decision is vacated and the Commission may take additional action on the application including affirming the decision, issuing a reconsidered decision, or other action as the Commission deems appropriate.

Amend Section 12066. Final Decisions; Judicial Review

This section provides procedural guidance to applicants related to when a decision of the Commission becomes final and what judicial remedy may be available.

- 1. Subsection (b)(2) is modified to make clear that a reconsidered decision is effective when specified in the decision as opposed to immediately when the reconsidered decision is issued.
- 2. New subsection (b)(3) is added to provide an additional option for the Commission to stay the effective date of a decision following the denial of a request for reconsideration.

Amend Section 12068. Decisions Requiring Resignation or Divestiture

This section provides guidance to applicants and business entities in regards to resignation and divestment of ownership interests where an application has been denied.

- 1. A new subsection (b)(4) is added which makes clear the requirements found under (a)(4) and (c)(2) also apply to limited liability companies.
- 2. A new subsection (e) is added to provide a default date upon which a specified person must be removed after the effective date of the Commission’s decision. This section requires the specified person to be removed no later than 60 days after effective date of the decision.

CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS:

The Commission has evaluated this regulatory action and determined that the proposed regulations are neither inconsistent nor incompatible with any other existing state regulations.

The Commission is vested with jurisdiction and supervision over gambling establishments and over all persons or things having to do with the operations of gambling establishments in California. The scope and content of the Commission’s regulations is generally set forth in section 19841. As provided in subdivision (a) of section 19870, the Commission may approve or deny a license “... after considering the recommendation of the chief and any other testimony and written comments as may be presented at the meeting...” As provided in subdivision (a) of

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section 19871, “the Commission meeting described in Section 19870 shall be conducted in accordance with regulations of the commission...” Those regulations that currently implement the Commission’s authority to establish hearing procedures are being amended in this proposal. The only equivalent process available to the Commission outside of its regulatory authority is provided in section 19825 which provides that “[t]he Commission may require that any matter that the Commission is authorized or required to consider in a hearing or meeting of an adjudicative nature regarding the denial...of a license...be heard and determined in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.”

While the Bureau [Department of Justice] has also been granted some authority to adopt regulations (section 19826), that authority is limited to the adoption of regulations reasonably related to its specified duties and responsibilities. These proposed regulations are not inconsistent or incompatible with any Bureau regulation (Title 11, CCR, Division 3), nor do they fall within the Bureau’s authority to adopt regulations.

COMPARABLE FEDERAL LAW:

There are no existing federal regulations or statutes comparable to the proposed 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:

There would be no fiscal impact on the Commission or to any state agencies, including costs or savings or costs/savings in Federal funding, except as noted below:

Bureau of Gambling Control

The Bureau of Gambling Control (Bureau) within the Department of Justice has determined that the proposed regulations do not present any fiscal or workload impact to the Bureau.

If there are any questions pertaining to the Bureau’s information, the contact person is: Susanne George – Susanne.George@doj.ca.gov – (916) 830-9032

Indian and Gaming Law Section

The Indian Gaming Law Section (IGLS) within the Department of Justice provided the Commission with a workload analysis and fee calculation based on the impact of these regulations. IGLS anticipates an increased workload based on the number of hours that they will spend processing defaults, reconsiderations, retractions and other hearing procedures. The time it takes to process these will depend on whether an applicant initiates a specific request.

If there are questions pertaining to the IGLS’s information, the contact person is: Catherine Taylor – Catherine.Taylor@doj.ca.gov - (916) 210-7303

NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES: None.

MANDATE IMPOSED ON ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT: None.

COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT: None.

EFFECT ON HOUSING COSTS: None.

IMPACT ON BUSINESS:

The Commission has made a determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This determination is based on the following facts or evidence/documents/testimony:

This proposed action imposes no mandatory requirement on businesses. The regulation simply provides a clear process to follow should a party's application be sent to an evidentiary hearing for consideration before the Commission. Any costs associated with pursuing a license would be voluntarily assumed upon the filing of an application. The proposed process provides for numerous opportunities for an applicant to request to end the process and therefore avoid further costs.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

EFFECT ON SMALL BUSINESS:

The Commission has determined that the proposed regulatory action will not affect small businesses because gambling enterprises, TPPPS and Gambling Businesses are not small businesses as defined in Government Code section 11342.610.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

IMPACT ON JOBS/NEW BUSINESSES:

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

The basis for this determination is that this proposed action imposes no mandatory requirement on businesses or individuals and does not significantly change the Commission's current practices and procedures. The proposed action simply provides a clear process to follow once a party has decided to submit an application for Commission consideration.

BENEFITS OF PROPOSED REGULATION:

This proposed action will have the benefit of providing helpful and clarifying modifications to the Commission's evidentiary hearing procedures. These modifications expand upon an evidentiary hearing process which helps provide applicants with a clear understanding of the process their application will follow, from review by the Bureau through consideration by the Commission at a non-evidentiary hearing through the evidentiary hearing process. Moreover, these updates will facilitate the production and presentation of all documents, testimony and other information which may be relevant and material to a Commission decision thereby enhancing the fairness of the decision and the legitimacy and transparency of the decision making process.

CONSIDERATION OF ALTERNATIVES

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 be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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 220, 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 primary contact person named below.

You may obtain a copy of the Final Statement of Reasons, 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:

Joshua Rosenstein, Legislative and Regulatory Specialist
Legislation and Regulatory Affairs Division
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231
Telephone: (916) 274-5823
Fax: (916) 263-0499
E-mail: jrosenstein@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:

Alex Hunter, Legislative and Regulatory Specialist
Legislation and Regulatory Affairs Division
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231
Telephone: (916) 263-1301
Fax: (916) 263-0499
E-mail: ahunter@cgcc.ca.gov

WEB SITE ACCESS

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