

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

CGCC-GCA-2018-04-R

COMMENTS AND RESPONSES FOR PROPOSED REGULATIONS

2ND 15-DAY WRITTEN COMMENT PERIOD

The following written comments were received regarding the proposed text dated October 28, 2019, during the 15-day written comment period that commenced October 28, 2019, and ended November 12, 2019:

A. 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 (b) [pg. 3, line 1] specifies that notices may be sent to the applicant, licensee, or designate agent via email if requested.
 - a. **Bradley Benbrook, California Gaming Association:** Mr. Benbrook suggested that the provision be revised to allow an applicant licensee, or designated agent to receive notices by mail *and* email and not just select one.

Recommended Response: This comment is not germane to the modified text of the proposed action.

B. AMEND SECTION 12035. ISSUANCE OF INTERIM RENEWAL LICENSES.

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.

1. Subsection (b) [pg. 10, line 11] would provide that the Commission will issue a new interim renewal license before the expiration date of an existing interim renewal license. Additionally, the license holder must provide specified information.
 - a. **Alan Titus, Artichoke Joe's:** Mr. Titus expressed a concern in regards to the language in subsection (b). Specifically, Mr. Titus is concerned that subsection (b) incorrectly references only paragraphs (1) and (2), and not paragraph (3). Mr. Titus comments that paragraph (3) adds a requirement not otherwise mentioned in paragraph (2) in regards to the required update.

Recommended Response: This comment was considered but was not incorporated. While Mr. Titus is partially accurate in his reading of this provision, the exclusion of paragraph (3) from the requirements for receipt of the new interim renewal license was intentional. Subsection (b) only requires the licensee to submit a complete application of the same type pending evidentiary hearing [paragraph (1)] and an explanation for the delay in concluding the hearing [paragraph (2)]. Paragraph (3) only explains what could occur if the justification for the delay in concluding the hearing during the previous interim renewal license term is not supported by good cause. Paragraph (3) therefore does not impact the receipt of the new interim renewal license, merely the Commission's actions in regards to the process.

2. Subsection (b) [pg. 10, line 11] would require applicants for a new interim renewal license to submit an application to the Commission of the same type that would be required for a renewal application of the same type pending an evidentiary hearing.
 - a. **Alan Titus, Artichoke Joe's:** Mr. Titus expressed a concern that the requirements of a complete application may be confusing. Specifically, Mr. Titus is confused about the use of the terms application and form, and what is considered a completed application.

Recommended Response: Mr. Titus' comments were considered but were not incorporated. An interim renewal license can be issued for licenses, work permits, and other approvals involving a finding of suitability. Each of these approval types has requirements for what is considered a completed application along with different fees, requirements, and timelines. If an applicant wasn't subject to a pending evidentiary hearing, the applicant would be required to review their relevant renewal procedures, pay fees, and submit all required documents within a specified timeline. This provision isn't designed to replicate or reproduce those requirements, but to instead only inform the applicant that they are responsible for maintaining the validity of their license beyond the two year cycle of the interim renewal license in a similar fashion to a regular renewal license, work permit, or other approval.

C. AMEND SECTION 12054. EVIDENTIARY HEARINGS.

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. The following comments were received about the section [pg. 15, line 10], in general:
 - a. **Bradley Benbrook, California Gaming Association:** Mr. Benbrook suggested that the GCA hearing process should include a means for the Commission to issue or approve a binding Statement of Issues similar to what is provided for APA hearings in Government Code section 11504.

Recommended Response: This comment is not germane to the modified text of the proposed action.

D. AMEND SECTION 12062. EVIDENTIARY HEARINGS.

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

1. Subsection (c), renumbered from subsection (d) [pg. 22, line 28] provides that only members of the Commission who heard the evidence presented at a hearing are eligible to vote on any decision. The provision allows votes to be made through the mail or by another appropriate method unless doing so would prevent the existence of a quorum. If no quorum could be made by Commissioners who heard the presented evidence at a hearing, another Commissioner may be allowed to vote after review of the complete record and any other additional briefings or hearings the Commission believes necessary.
 - a. **Bradley Benbrook, California Gaming Association:** Mr. Benbrook suggested that if a quorum is possible, but where the eligible members of the Commission cannot get the necessary three votes for any decision, a Commissioner who did not hear the presented evidence should be allowed to vote after a rehearing based on the hearing and audio file.

Recommended Response: This comment is not germane to the modified text of the proposed action.