

**TITLE 4.
CALIFORNIA GAMBLING CONTROL COMMISSION
CGCC-GCA-2020-0X-E**

**FINDING OF EMERGENCY
REGULATIONS FOR THE IMPLEMENTATION OF EMERGENCY SANITATION
PLANS FOR:**

**GAMBLING ESTABLISHMENTS, THIRD-PARTY PROVIDERS OF PROPOSITION
PLAYER SERVICES, AND GAMBLING BUSINESSES**

The California Gambling Control Commission (Commission) finds the adoption of regulations on an emergency basis requiring gambling enterprises, third-party providers of proposition player services (TPPPS), and gambling businesses to implement an emergency sanitation plan upon the reopening of gambling establishments to the public and their operation during a declared state of emergency associated with a virus (as specified) is necessary for the immediate preservation of the public peace, health, safety, and general welfare. The proposed regulations have been developed in consultation the California Department of Public Health (CDPH) and the Governor's Office.

SECTION 48 STATEMENT

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6.

EMERGENCY FACTS

As part of the state's response to address the Coronavirus Disease 2019 (COVID-19) global outbreak, Governor Gavin Newsom declared a State of Emergency on March 4, 2020. As the situation progressed, Governor Newsom signed Executive Order (EO) N-33-20 on March 19, 2020, issuing a stay-at-home order to protect the health and well-being of all Californians and to establish consistency across the state in order to slow the spread of COVID-19. As a result, California gambling establishments and other businesses that provide nonessential services to the public have been required to cease nonessential operations and close their doors to the public until further notice.

State of Emergency Proclamation

A state of emergency was declared in California on March 4, 2020, in response to a global outbreak of respiratory illness due to a novel coronavirus known as COVID-19. The virus has rapidly spread to more than 75 countries including the United States within a short time. Various state and federal agencies have been working in collaboration to monitor and plan for the potential spread of COVID-19 to the United States since December 2019. In response to the

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outbreak, by early March 2020 the US Centers for Disease Control and Prevention (CDC) activated the Emergency Response System, CDPH activated the Medical and Health Coordination Center, and the California Office of Emergency Services activated the State Operations Center to provide support and guidance to health facilities and the public. As of March 4, 2020, there were 94,000 confirmed cases of COVID-19 and 3,000 deaths worldwide. At that time, 129 of the confirmed cases were in the US, including 53 in California, with infections expected to increase pending the availability of more testing. Based on how rapidly the virus had spread in other countries, the state of emergency proclamation found that the number of persons requiring medical care may exceed locally available resources and it is necessary for state and local health departments to use all available preventative measures to combat the spread of COVID-19. As of July 22, 2020, there have been 425,616 confirmed cases and 8,027 deaths within the State of California alone.

The state of emergency orders all state agencies to perform any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan, as well as CDPH and the Emergency Medical Services Authority. Additionally, all residents of the state have been ordered to heed the advice of emergency officials in order to protect their safety. This state of emergency continues to remain in effect until further notice.

Executive Order N-33-20

On March 19, 2020, Governor Newsom signed EO N-33-20 to protect the public health of Californians consistently across the state by disrupting the spread of COVID-19 and mitigating its impact. The EO remains in effect until further notice. The EO finds that COVID-19 has rapidly spread throughout California, necessitating more stringent guidance from federal, state, and local public health officials. The EO directs all residents immediately heed to CDPH's current State public health directives to stay home, except as needed to maintain continuity of operations of the federal essential critical infrastructure sectors and additional sectors as the State Public Health Officer may designate as critical to protect health and well-being of all Californians.

California Department of Public Health – Essential Critical Infrastructure Workers List

The State Public Health Officer released a list of designated “Essential Critical Infrastructure Workers” on March 22, 2020, in an effort to help state, local, tribal, and industry partners as they work to protect communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security. The list identifies specific essential workers in the following essential critical infrastructure sectors:

- Healthcare / Public Health Sector
- Emergency Services Sector
- Food and Agriculture Sector
- Energy Sector
- Water and Wastewater Sector
- Transportation and Logistics Sector
- Communications and Information Technology Sector
- Other Community-based Government Operations and Essential Functions Sector
- Critical Manufacturing Sector
- Hazardous Materials Sector

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- Financial Services Sector
- Chemical Sector
- Defense Industrial Base Sector

Gambling enterprise, TPPPS, and gambling business employees are not identified as essential workers under any of the critical infrastructure sectors.

California's Six Indicators to be Used for Modifying Stay-at-Home and Other Orders During a Pandemic

On April 14, 2020, Governor Newsom unveiled the following six key indicators that will guide California's thinking for when and how to modify the stay-at-home and other orders during the COVID-19 pandemic:

1. The ability to monitor and protect our communities through testing, contact tracing, isolating, and supporting those who are positive or exposed.
2. The ability to prevent infection in people who are at risk for more severe COVID-19.
3. The ability of the hospital and health systems to handle surges.
4. The ability to develop therapeutics to meet the demand.
5. The ability for businesses, schools, and childcare facilities to support physical distancing.
6. The ability to determine when to reinstitute certain measures, such as the stay-at-home orders, if necessary.

Specifically, indicator number five above requires the ability for businesses to support physical distancing and other protocols, which are relevant to the Commission's proposed emergency regulations. The key questions that must be considered under this indicator are:

- Have we worked with businesses to support physical distancing practices and introduced guidelines to provide health checks when employees or the general public enter the premises?
- Do we have supplies and equipment to keep the workforce and customers safe?

Update on California's Roadmap to Pandemic Resilience – Four Stages

While California remains under a state of emergency, on April 28, 2020, Governor Newsom announced four Resilience Roadmap Stages in an update on California's Roadmap to Pandemic Resilience, which discusses how the state is planning its path forward in phases based on science, health, and data. The four stages that California will use to guide its gradual reopening process are:

- Stage 1: Safety and Preparedness – making essential workforce environment as safe as possible.
- Stage 2: Lower Risk Workplaces – creating opportunities for lower risk sectors to adapt and reopen. Modified school programs and childcare reopen.
- Stage 3: Higher Risk Workplaces – creating opportunities for higher risk sectors to adapt and reopen.
- Stage 4: End of Stay at Home Order – return to expanded workforce in highest risk workplaces. Requires Therapeutics.

Executive Order N-60-20

On May 4, 2020, EO N-60-20 informed local health jurisdictions and industry sectors that they may gradually reopen sectors under Stage 2, and eventually Stage 3, of *California's Roadmap to Pandemic Resilience* under specific criteria and procedures outlined the State Public Officer.

COVID-19 INDUSTRY GUIDANCE AND SUBSEQUENT CLOSURE ORDERS: Cardrooms, Satellite Wagering Facilities, and Racetracks

On June 5, 2020, Governor Newsom released a document that provides guidance for cardrooms (formally known as gambling establishments), satellite wagering facilities, and racetracks with onsite wagering to support a safe, clean environment for workers. This document also provides guidance for TPPPS businesses that operate within a gambling establishment, where applicable. The guidelines recommended effective date of opening for cardrooms that had approved county variances to be no sooner than June 12, 2020. An updated version of the publication was subsequently released on July 2, 2020. The Commission has acknowledged the guidance documents in developing the emergency sanitation plan regulations. Notably, as guidance are not requirements, cardrooms were/are able to accept said guidelines as such however there is no enforcement component available as said guidance are not mandatory provisions in which cardrooms must comply with. Notably, of the cardrooms that resumed operations, observations indicate that the majority of cardrooms choose to not implement some or majority of the said guidance while operating.

One July 1, 2020, Governor Newsom and the CDPH released guidance directing counties that have been on the County Monitoring List for three consecutive days or more to close indoor operations for certain sectors which promote the mixing of populations beyond households and make adherence to physical distancing and wearing face coverings difficult. The directive includes the closing of cardrooms within the specified counties. On July 1, the following 19 counties were impacted: Contra Costa; Fresno; Glenn; Imperial; Kern; Kings; Los Angeles; Merced; Orange; Riverside; Sacramento; San Bernardino; San Joaquin; Santa Barbara; Santa Clara; Solano; Stanislaus; Tulare; and Ventura. On July 7, 2020 and July 8, 2020, additional counties were added, totaling 27 counties.

On July 13, 2020, Governor Newsom and the CDPH released a Public Health Order closing all indoor operations for specific sectors statewide, including all cardrooms.

During said directives, cardrooms closed in a manner that was problematic for regulators to ensure proper cage activities and wind-ups for operations occurred. With current regulations there are no current requirements for cardrooms to notify the regulators of closures, less any actual requirements concerning closures to afford adequate public protections such as minimal sanitation standards or monitoring to their (the patron's) funds. Notably, approximately less than ten percent of the active cardrooms notified the state of their closures.

United States Centers for Disease Control and Prevention and the Occupational Safety and Health Administration

CDC is responding to this pandemic of respiratory disease spreading from person to person caused by COVID-19. According to CDC, the situation poses a serious public health risk. COVID-19 can cause mild to severe illness with the most severe illness occurring in adults 65

years of age and older and people of any age with serious underlying medical problems. According to CDC, the disease is thought to be spread in the following ways:

- Person-to-Person
 - Between people who are in close contact with one another (within about 6 feet).
 - Through respiratory droplets produced when an infected person coughs, sneezes or talks.
 - These droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs.
 - Some recent studies have suggested that COVID-19 may be spread by people who are not showing symptoms.
- Contact with Contaminated Surfaces or Objects
 - It may be possible that a person can get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose, or possibly their eyes.

CDC advises that maintaining good physical distance (about six feet) is very important in preventing the spread of COVID-19. People should wash their hands often with soap and water or use an alcohol-based hand rub (if soap and water is unavailable). Also, frequently touched surfaces should be routinely cleaned.

CDC has provided guidance on its website for businesses and employers to plan and respond to COVID-19 and recommends following guidelines published by the United States Occupational Safety and Health Administration (OSHA). OSHA has developed the document *OSHA 3990-03 2020, Guidance for Preparing Workplaces for COVID-19*, which is based on traditional infection prevention and industrial hygiene practices. The document focuses on the need for employers to implement engineering, administrative, and work practice controls and personal protective equipment (PPE), as well as considerations for doing so.

United States Environmental Protection Agency List N: Disinfectants for Use Against SARS-CoV-2

For proper disinfection of surfaces, CDC and OSHA recommend the use of products that meet the United States Environmental Protection Agency's (EPA) criteria for use against SARS-CoV-2, the virus that causes COVID-19, and are appropriate for the surface. The EPA has published *List N*, which is an updated listing of all products that meet EPA's criteria for use against SARS-CoV-2.

The Commission has utilized the aforementioned information and directives in developing these regulations. The documents have been incorporated into the emergency rulemaking file and the relevant information therein is also discussed in the Informative Digest section below.

The Commission created these regulations to safeguard the public's health, safety, and create financial safeguards and protections. In addition, it provides clear direction to the industry to ensure efficient and effective regulation of cardroom operations during these unprecedented times.

AUTHORITY AND REFERENCE

Statutes of Authority

Business and Professions Code section 19811, subdivision (b), provides the Commission jurisdiction over the operation and concentration, and supervision over gambling establishments in this state and over all persons or things having to do with the operations of gambling establishments.

Business and Professions Code section 19824, provides the Commission shall have all powers necessary and proper to enable it fully and effectually to carry out the policies and purposes of the Gambling Control Act (Act), including, without limitation, the power to:

- For any cause deemed reasonable by the Commission via the Act or regulations adopted pursuant to the Act, deny, limit, condition, or restrict any license, permit, or approval, or impose any fine upon any person licensed or approved (subdivision (b)).
- Take actions deemed to be reasonable to ensure that gambling activities take place only in suitable locations (subdivision (e)).

Business and Professions Code section 19840 authorizes the Commission to adopt regulations for the administration and enforcement of the Act.

Business and Professions Code section 19841 requires the Commission to adopt regulations that do the following:

- With respect to applications and registrations, the regulations shall include, but not be limited to, provisions that (subdivision (a)):
 - Prescribe the method and manner of application and registration.
 - Prescribe the information to be furnished by any applicant, licensee, or registrant concerning, as appropriate, business activities.
 - Prescribe the information to be furnished by an owner licensee relating to the licensee's gambling employees.
- Prescribe minimum procedures for adoption by owner licensees to exercise effective control over their gambling affairs, which shall include, but not be limited to, provisions for the provision of reliable records, accounts, and reports of operations, and events, including reports to the Department of Justice's Bureau of Gambling Control (Bureau) (subdivision (h)(3)).
- Restrict, limit, or otherwise regulate any activity that is related to the conduct of controlled gambling (subdivision (o)).
- Define and limit the area, games, equipment permitted, or the method of operation of games and equipment, if the Commission, upon the recommendation of, or in consultation with, the Bureau, determines that local regulation of these subjects is insufficient to protect the health, safety, or welfare of residents in geographical areas proximate to a gambling establishment (subdivision (p)).

Reference Statutes

Business and Professions Code section 19801 provides legislative findings and declarations that state the following:

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- Public trust that permissible gambling will not endanger public health, safety, or welfare requires that comprehensive measures be enacted to ensure that gambling is conducted in suitable locations (subdivision (g)).
- All gambling operations, all persons having a significant involvement in gambling operations, all establishments where gambling is conducted, and all gambling equipment must be licensed and regulated to protect the public health, safety, and general welfare of the residents of this state as an exercise of the police powers of the state (subdivision (i)).
- In order to effectuate state policy as declared in the Act, it is necessary that gambling establishments, activities, and equipment be licensed, that persons participating in those activities be licensed or registered, that certain transactions, events, and processes involving gambling establishments and owners of gambling establishments be subject to prior approval or permission, that unsuitable persons not be permitted to associate with gambling activities or gambling establishments, and that gambling activities take place only in suitable locations. Any license or permit issued, or other approval granted pursuant to the Act, is declared to be a revocable privilege, and no holder acquires any vested right therein or thereunder (subdivision (k)).

Business and Professions Code section 19823 states the responsibilities of the Commission include, without limitation, all of the following:

- Assuring that licenses, approvals, and permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.
- Assuring that there is no material involvement, directly or indirectly, with a licensed gambling operation, or the ownership or management thereof, by unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.
- For the purposes of this section, “unqualified person” means a person who is found to be unqualified pursuant to the criteria set forth in Section 19857, and “disqualified person” means a person who is found to be disqualified pursuant to the criteria set forth in Section 19859.

Business and Professions Code section 19920 provides that it is the policy of the state to require that all establishments wherein controlled gambling is conducted in this state be operated in a manner suitable to protect the public health, safety, and general welfare of the residents of the state. The responsibility for the employment and maintenance of suitable methods of operation rests with the owner licensee, and willful or persistent use or toleration of methods of operation deemed unsuitable by the Commission or by local government shall constitute grounds for license revocation or other disciplinary action.

Business and Professions Code section 19984, subdivision (b) allows a gambling enterprise to contract with a TPPPS to provide proposition player services at a gambling establishment, subject to specified conditions. One of these conditions requires the Commission to establish reasonable criteria for, and require the licensure or registration of, any person or entity that provides proposition player services at gambling establishments, including owners, supervisors, and players. The provision also allows the Commission to impose licensing requirements,

disclosures, approvals, conditions, or limitations as it deems necessary to protect the integrity of controlled gambling in this state.

POLICY STATEMENT OVERVIEW

As of July 21, 2020, all gambling establishments in California have been ordered to close to the public until further notice. Upon further directives from the Governor, CDPH and the State Public Health Officer, and in accordance with various government issued guidance documents and publications, gambling establishments will likely be allowed to reopen to the public in the future under modified orders while the state of emergency remains in effect.

The policy of the state requires that all establishments wherein controlled gambling is conducted in this state be operated in a manner suitable to protect the public health, safety, and general welfare of the residents of the state. The Commission's jurisdiction over the operation and concentration, and supervision over gambling establishments and over all persons or things having to do with the operations of gambling establishments, make it necessary for the Commission to adopt emergency regulations to avoid serious harm to employees and customers and for the immediate preservation of the public health, safety, and general welfare. (See Authority and Reference section for further detail.)

Pursuant to its authority in Business and Professions Code sections 19811, 19824, 19840, and 19841, the Commission finds that adoption of regulations on an emergency basis requiring a gambling enterprise, TPPPS, and gambling business to develop, submit and implement an emergency sanitation plan with specified minimum requirements is necessary prior to reopening gambling establishments to the public during a declared state of emergency associated with a virus.

In summary, the regulations require the emergency sanitation plan contain minimum standards for:

- Physical distancing and hygiene practices for workers and the public, including modified table game rules concerning designated player spaces and the maximum number of players allowed to participate;
- Advising workers and the public of physical distancing and hygiene practices upon entering a gambling establishment;
- Employee training and documentation;
- Health screenings for any individual entering a gambling establishment;
- Equipment and supplies that must be provided and worn by workers while at a gambling establishment;
- Routine sanitation of common areas and equipment using disinfectants that meet the EPA's criteria;
- Sanitation standards for common contact areas in the gambling establishment and equipment shared by workers;
- Procedures and sanitation standards to ensure the safe handling of cards and gaming chips; and,
- Other requirements as specified.

INFORMATIVE DIGEST

Pursuant to the authority vested by sections 19811, 19824, 19840, and 19841 of the Business and Professions Code, and to implement, interpret, or make specific sections 19801, 19823, 19920, and 19984, the Commission is proposing to adopt the amendments to Chapters 2.1, 3, 6, and 7 of Division 18 of Title 4 of the California Code of Regulations, as described below.

General Notes

A general change has been made in the proposal to replace the word “shall.” Shall is a potentially ambiguous word. In most connotations, the term is used to convey an obligation. However, the word has been used in a variety of contexts to convey a range of ideas including “may,” defining a term, meaning “should,” etc. In an effort to foreclose any such ambiguity, shall is replaced throughout the text with other words subject to less interpretation. These changes are non-substantive and clarifying in nature.

Third-party Provider of Proposition Player Services and Gambling Business Requirements

The Commission is proposing changes to the existing versions of the Level III Supplemental Information forms (BGC-APP-034A and BGC-APP-034B) referenced in Section 12200 of Chapter 2.1. The forms have been updated to require the primary owner of a TPPPS or gambling business to submit an emergency sanitation plan as part of the license application supplemental information package. This requirement is necessary to implement recommendations provided by the state, CDC, and OSHA for employers to develop a workplace-specific COVID-19 prevention plan that can help guide protective actions against COVID-19 and other similar types of viral pandemics that may occur in the future.

New Section 12292(a) requires the primary owner of a TPPPS or gambling business prepare and maintain an emergency sanitation plan (as specified) and conduct employee training on the content therein and on the appropriate use and disposal of all necessary equipment. Further, Section 12292(a)(1) provides the emergency sanitation plan must be activated if the primary owner of a TPPPS or gambling business participates in the play of any controlled game where the operating gambling establishment is subject to a state of emergency or other order. The state of emergency or other order must be associated with a virus and include an isolation, stay at home, telework, teleconferencing, or physical distancing order(s). CDC has identified COVID-19 as a disease that can spread between people who are in close contact with one another (within about six feet), through respiratory droplets produced when an infected person coughs or sneezes or by coming in contact with contaminated surfaces or objects. These requirements are necessary to implement state guidance publications and recommendations provided by the state, CDC, and OSHA for employers to develop a workplace-specific COVID-19 prevention plan that can help guide protective actions against COVID-19. It is also recommended that employees are provided with adequate, usable, and appropriate training, education, and informational material about business-essential job functions and worker health and safety, including proper hygiene practices and the use of any workplace controls including PPE. TPPPS and gambling business employees interact and come in close contact with one another and with the public at gaming tables. In order to protect both employees and the public, it is necessary to require that TPPPS and gambling businesses enact the emergency sanitation plan under the specified circumstances and ensure employees be provided proper training.

New Section 12292(a)(2) requires that at a minimum, the emergency sanitation for a TPPPS or gambling business must:

- Identify the job title(s) (including contact information such as a phone number) of the person who is responsible for:
 - Maintaining the emergency sanitation plan;
 - Implementing the emergency sanitation plan;
 - Coordinating training and documenting all required training related to the emergency sanitation plan;
 - Conducting regular evaluations of the primary owner's operations for compliance with the emergency sanitation plan; and
 - Identifying contact information for the local health department for the jurisdiction in which the gambling establishment is located and include all necessary contact information for communicating information related to any outbreak among employees.

These requirements are necessary to ensure there is at least one employee assigned to and responsible for maintaining, implementing, and providing training on the sanitation plan. Additionally, providing specific contact information for reaching the assigned employee and the local health department is essential to ensure adequate coordination should an outbreak occur among employees. These requirements are consistent with state guidelines and existing Commission regulations for maintaining operational policies.

New Section 12292(a)(3)(A) through (C) contains minimum training standards concerning the emergency sanitation plan of a TPPPS or gambling business. These standards require training for all new employees within 60 days of being issued a license or work permit, or the employee's start date (whichever is later). Upon activation of the emergency sanitation plan, existing employees are required to complete the training prior to beginning any work shift other than a work shift to receive the training unless the employee has completed the training within the previous three months. Further, the standards establish record keeping requirements for each employee that completes the training for tracking purposes. These requirements are necessary to ensure accountability for employee safety and that all employees are equipped with the most up-to-date knowledge and procedures needed to navigate a viral emergency.

New Section 12292(a)(3)(D) requires that the sanitation plan training for a TPPPS or gambling business contain information concerning the following topics:

- Information concerning current or past state of emergencies or other orders related to a virus, how to prevent the spread of such, and underlying health conditions that may make certain individuals more susceptible to contracting the virus based on any instruction provided by recognized federal, state or local governments;
- How individuals can self-screen at home, including temperature and/or symptom checks;
- The importance of not coming to work if the employee or someone they live with has been diagnosed with a virus or if the employee is exhibiting symptoms;
- Information on proper hygiene and physical distancing practices and the importance thereof;
- Information on employer or government-sponsored leave benefits the employee may be entitled to receive; and,

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- Information on the purpose and proper use of face coverings.

These requirements are necessary to ensure employees receive adequate training and are equipped with pertinent knowledge needed to maintain a safe workplace. The requirements are consistent with state and federal guidelines.

New Section 12292(a)(4) provides that at a minimum, the emergency sanitation plan for a TPPPS or gambling business contains the following minimum employee and public health requirements:

- All employees must wear appropriate face coverings while at the gambling establishment and all PPE in accordance with the emergency sanitation plan.
- All employees must practice correct hygiene and hand washing or sanitizing (as specified) at least every 60 minutes.
- Any shared equipment must be sanitized prior to being used by a different employee.
- Upon return to a floor bank, under the control of the TPPPS, all chips must be sanitized or kept out of rotation for a time period sufficiently long to ensure that no viral threat remains (based upon the most current information available for the virus for which the state of emergency or other order is associated).

In addition to being transmitted through respiratory droplets of an infected person, CDC has advised that current evidence suggests SARS-CoV-2 may remain viable for hours to days on surfaces made from a variety of materials. These employee requirements are necessary to implement CDC and OSHA recommendations for basic infection prevention measures on minimizing the risk of viral exposure to employees and the public.

New Section 12292(a)(5) contains minimum sanitation standards that must be included in an emergency sanitation plan of a TPPPS or gambling business, which are as follows:

- Any reusable face coverings or gloves must be properly cleaned, decontaminated, and maintained after and between uses. Face coverings and protective gloves must never be shared between persons.
- The sanitation of shared equipment must include the use of a disinfectant that is on the appropriate United States Environmental Protection Agency's list of registered disinfectants, a diluted household bleach solution at a ratio of five tablespoons (1/3rd cup) of bleach per gallon of water, or an alcohol solution with at least 70 percent alcohol that is appropriate for the surface being cleaned.
- For any shared equipment that requires sanitization but is not recorded by the gambling establishment's surveillance system, the primary owner must maintain a record of all sanitizations performed. This record must include the date and time of the sanitation and the name of the employee who completed it.

For proper disinfection of surfaces, CDC and OSHA recommend the use of disinfectants that meet the EPA's criteria. In regards to the current state of emergency concerning COVID-19, the EPA has published List N, which is an updated listing of all products that meet EPA's criteria for use against SARS-CoV-2. CDC also states that diluted household bleach solutions at a ratio of five tablespoons (1/3rd cup) of bleach per gallon of water may be used as a disinfectant if appropriate for the surface. These requirements are necessary to implement recommendations

for cleaning, disinfection, and proper use and disposal of equipment provided by CDC, OSHA, and EPA based on the known facts of how COVID-19 and other infectious diseases spread as previously discussed. Further, the requirements ensure that adequate accountability of the primary owner for sanitation of shared equipment is maintained, tracked, and recorded.

New Section 12992(a)(6) provides that the requirements of this subsection do not exempt the licensee from complying with any other guidelines, requirements, or instructions provided by any federal agency, such as CDC or OSHA, any other state agency, such as the Department of Public Health, or by the local jurisdiction. This provision is necessary to provide clarity that this section only contains minimum requirements and does not exempt the licensee from complying with other guidelines or requirements that have been established by other authorities having jurisdiction and related expertise. Further, the guidelines and requirements provided by other agencies are dynamic and continue to be updated at the time of this writing. This provision ensures the licensee is provided proper notice that there are additional guidelines and requirements that have been established by such authorities.

New Section 12992(b) through (d) requires an applicant for registration to submit an emergency sanitation plan to the Bureau as part of the application for registration process. Further, the regulations require a TPPPS or gambling business submit a copy of its emergency sanitation plan to the Bureau within 30 calendar days after the effective date of these regulations and within seven calendar days of revising the emergency sanitation plan. These requirements ensure that a TPPPS or gambling business develops and submits an emergency sanitation plan when applying for a registration or, if already the holder of a valid registration, upon the regulations taking effect. Additionally, the requirements ensure the Bureau is notified and receives a copy anytime a primary owner revises its emergency sanitation plan to verify the plan remains compliant with the regulations. The requirements are consistent with the procedures required by existing Section 12370 for gambling enterprises, and are appropriate to apply to TPPPS and gambling businesses for the purpose of these proposed regulations.

Gambling Enterprise Requirements

The Commission is proposing changes to the existing versions of the following forms: (1) Gambling Establishment Supplemental Information for a State Gambling License form (BGC-APP-015C) referenced in Section 12342 of Chapter 6, and (2) Notice of Relocation form (CGCC-050) referenced in Section 12364 of Chapter 7. These forms are required to be submitted to the Bureau with an application for a state gambling license or when an owner licensee plans to relocate the gambling establishment to a new location. The forms are being updated to require the submission of an emergency sanitation plan for the gambling establishment as part of the application and relocation planning processes. Additionally, conforming changes are proposed to Section 12364(b)(1)(C) concerning the planned relocation of a gambling establishment to a new location that is more than 1,000 feet from any boundary line of its governing local jurisdiction. These requirements are necessary to implement recommendations provided by the state, CDC, and OSHA for employers to develop a workplace-specific COVID-19 prevention plan that can help guide protective actions against COVID-19 and other similar types of viral pandemics that may occur in the future.

The Commission is proposing minor, nonsubstantive changes to Section 12370(a). The terms “gambling enterprise” and “gambling establishment” are inconsistently used throughout the Act. For consistency in the regulations, gambling enterprise has been used in other regulatory packages adopted by the Commission to refer to the person or entity that conducts a gambling operation; whereas a gambling establishment is the physical room or building where the controlled gambling or activity occurs. As such, this practice has been carried forward in this section and throughout the proposed regulations for clarity, as appropriate.

New Section 12371(a) requires a gambling enterprise prepare and maintain an emergency sanitation plan (as specified) and conduct employee training on the content therein and on the appropriate use and disposal of all necessary equipment. Further, Section 12371(a)(1) provides the emergency sanitation plan must be activated if the operating gambling establishment is subject to a state of emergency or other order. The state of emergency or other order must be associated with a virus and include an isolation, stay at home, telework, teleconferencing, or physical distancing order(s). CDC has identified COVID-19 as a disease that can spread between people who are in close contact with one another (within about six feet), through respiratory droplets produced when an infected person coughs or sneezes or by coming in contact with contaminated surfaces or objects. These requirements are necessary to implement recommendations provided by CDC and OSHA for employers to develop a workplace-specific COVID-19 prevention plan that can help guide protective actions against COVID-19. It is also recommended that employees are provided with adequate, usable, and appropriate training, education, and informational material about business-essential job functions and worker health and safety, including proper hygiene practices and the use of any workplace controls (including PPE). A gambling establishment is the physical room or building where the controlled gaming occurs, which possess a risk to all employees and the public that enter. Gambling enterprise employees interact and come in close contact with one another and with the public while inside the establishment. Multiple people come in contact with common equipment and surfaces on a frequent basis and within a short amount of time. In order to protect both employees and the public, it is necessary to require gambling enterprises enact an emergency sanitation plan under the specified circumstances and ensure their employees be provided proper training.

New Section 12371(a)(2)(A) through (B) requires that at a minimum, the emergency sanitation for a gambling enterprise must:

- Identify the job title(s) (including contact information such as phone number) of the person who is responsible for:
 - Maintaining the emergency sanitation plan;
 - Implementing the emergency sanitation plan;
 - Coordinating training and documenting all required training related to the emergency sanitation plan;
 - Conducting regular evaluations of the gambling establishment for compliance with the emergency sanitation plan;
 - Identifying contact information for the local health department for the jurisdiction in which the gambling establishment is located and including all necessary contact information for communicating information related to any outbreak among employees.

These requirements are necessary to ensure there is at least one employee assigned to and responsible for maintaining, implementing, and providing training on the emergency sanitation plan. Additionally, providing specific contact information for reaching the assigned employee and the local health department is essential to ensure adequate coordination should an outbreak occur among employees. These requirements are consistent with state guidelines and existing Commission regulations for maintaining operational policies.

New Section 12371(a)(2)(C) requires the emergency sanitation plan provide procedures for when the gambling enterprise is required by the state and/or public health officials to. The closing procedures in the plan must require that the Chief of the Bureau and Executive Director of the Commission be notified by email within 24 hours of closing. Further, an outstanding gaming chip liability count must be conducted within 24 hours of closure, with a notification to the Bureau of the results within 24 hours of the count being completed. The requirements are necessary to ensure adequate and safe planning and procedures are established in the event businesses are ordered to close in response to a state of emergency or other order associated with a virus. Providing notification to the Bureau and Commission of closure is necessary so that these authorities can track and confirm the operational status of all gambling establishments in California. Further, pursuant to an emergency closure, there is likely to be gaming chips in circulation held by patrons outside of the gambling establishment, which would no longer have the ability to cash such chips in upon closure. Requiring that an outstanding chip liability count be conducted and reported to the Bureau within 24 hours is necessary to ensure integrity and accountability of funds is maintained pursuant to an emergency closure.

New Section 12371(a)(3)(A) through (C) contains minimum training standards concerning the emergency plan of a gambling enterprise. These standards require training for all new employees within 60 days of being issued a license or work permit, or the employee's start date (whichever is later). Existing employees are required to complete the training prior to beginning any work shift other than a work shift to receive the training unless the employee has completed the training within the previous three months. Further, the standards establish record keeping requirements for each employee that completes the training for tracking purposes. These requirements are necessary to ensure accountability for employee safety and that all employees are equipped with the most up-to-date knowledge and procedures needed to navigate a viral emergency.

New Section 12371(a)(3)(D) requires the sanitation plan training for a gambling enterprise contain information concerning the following topics:

- Information concerning current or past state of emergencies or other orders related to a virus, how to prevent the spread of such, and underlying conditions that may make certain individuals more susceptible to contracting the virus based on any instruction provided by recognized federal, state or local governments;
- How individuals can self-screen at home, including temperature and/or symptom checks;
- The importance of not coming to work if the employee or someone they live with has been diagnosed with a virus or if the employee is exhibiting symptoms;
- Information on proper hygiene and physical distancing practices and the importance thereof;

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- Information on employer or government-sponsored leave benefits the employee may be entitled to receive; and,
- Information on the purpose and proper use of face coverings.

These requirements are necessary to ensure employees receive adequate training and are equipped with pertinent knowledge needed to maintain a safe workplace. The requirements are consistent with state and federal guidelines.

New Section 12371(a)(4) provides gambling enterprise employee and public health related minimum requirements, which are described below.

Subparagraph (A) requires the gambling enterprise to have an entering process that ensures no person is allowed to stay in the gambling establishment if they are displaying a temperature of 100.4 degrees Fahrenheit or greater. The provision also provides that this requirement does not apply to employees unless employer screening of employees has been identified in any guidelines, requirements, or instructions provided by any recognized state or federal agency or by the local jurisdiction. According to CDC, one of the common symptoms of COVID-19 is a fever. CDC considers a person to have a fever when he or she has a measured temperature of at least 100.4 °F [38 °C]. This requirement will help to screen any person displaying one of the key indicators identified by the CDC for being infected with a virus such as COVID-19 and prevent the potential spread of infection within the gambling establishment. It is important to note, if a gambling enterprise does not want to be responsible for conducting temperature screenings on TPPPS employees, the TPPPS contract made between the gambling enterprise and TPPPS may be amended to require the TPPPS to ensure a screening is conducted on its own employees prior to entering the establishment (subject to Bureau contract approval).

Subparagraphs (B) through (M) provide, as part of the minimum requirements of an emergency sanitation plan, the gambling enterprise must:

- Ensure that every member of the public, upon entry, be advised to practice a physical distancing standard consistent with applicable physical distancing guidelines provided by any federal agency, such as CDC or OSHA, any other state agency, such as the CDPH, or by the local jurisdiction, to not touch their face, to frequently wash their hands with soap for at least 20 seconds, and how to properly handle and dispose of face coverings and gloves.
- Designate separate, clearly designated entrance(s) and exit(s) to help maintain physical distancing, wherever possible.
- Ensure employees and members of the public have sufficient accessibility to hand sanitizer dispensers, (touchless whenever possible) at all entrances and high contact areas of the gambling establishment and that all sanitary facilities stay operational and stocked at all times. All persons (dealers and players) must use hand sanitizer prior to beginning play at each card table.
- Install and encourage the use of hands-free devices, whenever practical and possible, including motion sensor lights, contactless payment systems, automatic soap and paper towel dispensers, and timecard systems.
- Require that all employees must use appropriate face coverings while at the gambling establishment and all PPE in accordance with the emergency sanitation plan.

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- Require that any employee whose job duties include contact with body fluids, such as saliva, must wear appropriate protective gloves.
- Require all employees to practice correct hygiene and hand washing or sanitizing (as specified) at least every 60 minutes.
- Provide a list of common areas that must be sanitized at least once per hour.
- Provide a list of shared equipment that must be sanitized prior to being used by a different employee.
- Provide a list of player spaces at gaming tables, including but not limited to the immediate surface of the gaming table, the player's chair, and any immediately adjacent barrier's surface that must be sanitized before another player is allowed to occupy the space.
- Implement measures to ensure appropriate physical distancing between all persons within the gambling establishment; including but not limited to:
 - Clearly mark areas where employees or members of the public should stand when waiting in a line.
 - Other measures such as the use of non-permeable polymethyl methacrylate barriers for areas where appropriate physical distancing cannot be ensured
- Provide a list of common areas where signage will be prominently posted. Signage must be prominently posted on the gambling establishment's website(s) and at all entrances to the gambling establishment. The signage must include the following information:
 - Individuals who are showing signs of illness are advised to leave the establishment;
 - Information that is provided to the public pursuant to subparagraph (a)(4)(B) of this section; and,
 - Everyone should practice proper physical distancing while waiting in lines and whenever else possible.
- Inspect deliveries and take all necessary and feasible disinfection measures when receiving goods.
- Consider installing portable high-efficiency air cleaners, upgrading the building's air filters to the highest efficiency possible, and making other modifications to increase the quantity of outside air and ventilation in offices and other spaces.
- Notify the Bureau and the local health department for the jurisdiction of any presence of the virus designated by the state of emergency or other order identified in the gambling establishment within 24 hours or less if required by the local jurisdiction.
- Upon return to a cage, all chips must be sanitized or kept out of rotation for a time period sufficiently long to ensure that no viral threat remains (based upon the most current information available for the virus for which the state of emergency or other order is associated).

The requirements of subparagraphs (B) through (M) are necessary to mitigate risk to public health and safety and implement recommendations for basic infection prevention and contact tracing measures provided by the state, CDC, and OSHA based on the known facts of how COVID-19 and other infectious diseases spread as previously discussed.

New Section 12371(a)(5)(A) through (E) provides the following minimum requirements for the operation of gaming tables in a gambling establishment while an emergency sanitation plan is in effect:

- No gaming table is allowed to operate unless:
 - The gaming table is operating with no more than half of the number of players allowed in the Bureau-approved game rules, with remaining spaces for players distributed on the table to ensure maximum physical separation. Any play space that is to remain unused must be removed or covered in such a way as to prohibit its use by a player; or,
 - The gaming table includes, between each available space designated for a player, a clear, non-tinted, non-permeable barrier, such as polymethyl methacrylate, that is sufficiently sized to prevent two players from coming into direct physical contact during the play of any controlled game.
- Participation and observation of a controlled game by members of the public will not be allowed unless that person has a space designated for a player at the table or is at another designated space that is positioned to allow for appropriate physical distancing and the gaming table includes a vacant player space that has been designated for such participants to approach the table one at a time..
- If, after the reduction of spaces for players, the gaming table does not allow for appropriate physical distancing, all players must wear appropriate face coverings in the manner of its intended use. If players must wear face coverings, no activity may be conducted at the table that would require the removal of face coverings, except during the actual consumption of a beverage.
- Provide frequent breaks in play in games where items are passed back and forth for an extended period to allow employees and players to use hand sanitizer and/or wash their hands.
- Cards must be replaced as follows:
 - If the game rules allow a player to touch the cards, all cards that have been dealt must be replaced at least every four hours.
 - If the game rules do not allow a player to touch the cards, all cards that have been dealt must be replaced at least every twelve hours.
 - Any card removed from the table must be disposed of, sanitized, or kept out of rotation for seven days.

These requirements will prevent overcrowding at gaming tables and will help those participating in a controlled game, including TPPPS employees, gambling business employees, and members of the public, to maintain appropriate health and safety practices. The requirements prevent physical distancing practices recommended by CDC and OSHA from being broken when an individual places a backline bet. Requirements for safely handling, sanitizing or disposing of cards and chips used in a game ensures public and employee safety in handling these potentially contaminated items. These requirements are necessary to mitigate risk to public health and safety and implement recommendations for basic infection prevention measures provided by CDC and OSHA based on the known facts of how COVID-19 and other infectious diseases spread as previously discussed.

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New Section 12371(a)(6) contains minimum requirements for non-gambling areas within a gambling establishment. Non-gambling areas such as office spaces, cages, security rooms, break rooms, supply rooms, and meeting rooms, must be closed, have reduced capacity, use barriers, or be otherwise reconfigured, to ensure physical distancing between all persons, whenever possible. Additionally, self-service coffee, water, and snack areas must be closed unless those services are capable of dispensing without being physically touched. These requirements are necessary to mitigate risk to public health and safety and implement recommendations for basic infection prevention measures provided by CDC and OSHA based on the known facts of how COVID-19 and other infectious diseases spread as previously discussed.

New Section 12371(a)(7)(A) through (C) provides the following minimum sanitation standards for the gambling enterprise while an emergency sanitation plan is in effect:

- Any reusable face coverings or gloves must be properly cleaned, decontaminated, and maintained after and between uses. There must be a designated space to dispose of or collect used face coverings or gloves, including any that may be utilized by the public. Face coverings and protective gloves must never be shared between persons.
- The sanitation of common contact areas and shared equipment must include the use of a disinfectant that is on the appropriate United States Environmental Protection Agency's list of register disinfectants, or a diluted household bleach solution at a ratio of five tablespoons (1/3rd cup) of bleach per gallon of water, or an alcohol solution with at least 70 percent alcohol that is appropriate for the surface being cleaned.
- The gambling enterprise must maintain a record of all sanitizations performed, including the date and time of the sanitation and the name of the employee who completed it, for any common contact areas and shared equipment that requires sanitization but is not covered by the gambling establishment's surveillance system.

The requirements are necessary to ensure the safe usage and disposal of used face coverings and gloves that could potentially contain live viral particles. For proper disinfection of surfaces, CDC and OSHA recommend the use of disinfectants that meet the EPA's criteria and are appropriate for the surface. In regards to the current state of emergency concerning COVID-19, the EPA has published List N, which is a comprehensive document of all products that meet EPA's criteria for use against SARS-CoV-2. CDC also states that diluted household bleach solutions at a ratio of five tablespoons (1/3rd cup) of bleach per gallon of water may be used if appropriate for the surface. These requirements are necessary to implement recommendations for proper use and disposal of protective equipment as well as general cleaning and disinfection guidance provided by CDC, OSHA, and EPA based on the known facts of how COVID-19 and other infectious diseases spread as previously discussed. Further, the requirements ensure that adequate accountability of the gambling enterprise for sanitation is maintained, tracked, and recorded.

New Section 12371(a)(8) provides that the requirements of this subsection do not exempt the gambling enterprise from complying with any other guidelines, requirements, or instructions provided by any federal agency, such as CDC or OSHA, any other state agency, such as CDPH, or by the local jurisdiction. This provision is necessary to provide clarity that this section only contains minimum requirements and does not exempt the gambling enterprise from complying with other guidelines or requirements that have been established by other authorities having

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jurisdiction and related expertise. Further, the guidelines and requirements provided by other agencies are dynamic and continue to be updated at the time of this writing. This provision ensures the licensee is provided proper notice that there are additional guidelines and requirements that have been established by such authorities.

New Section 12371(b) through (d) requires an applicant for an initial gambling enterprise owner license to submit an emergency sanitation plan to the Bureau as part of the initial license application process. Further, the regulations require a gambling enterprise to submit a copy of its emergency sanitation plan to the Bureau within 30 calendar days after the effective date of these regulations and within seven calendar days of revising the emergency sanitation plan. These requirements ensure that a gambling enterprise develops and submits an emergency sanitation plan when applying for an initial license or, if already the holder of a valid license, upon the regulations taking effect. Additionally, the requirements ensure the Bureau is notified and receives a copy anytime a gambling enterprise revises its emergency sanitation plan to verify the plan remains compliant with the regulations. The new provision is consistent with the procedures required by existing Section 12370, another emergency plan requirement.

FISCAL IMPACT ESTIMATES:

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

FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES OR COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE: The Commission has determined that this regulatory proposal will not have a significant fiscal impact on state agencies.

DOCUMENTS RELIED UPON:

State of California – Office of Governor Gavin Newsom

State of Emergency Proclamation – March 4, 2020

<https://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf>

Executive Order N-33-20 – March 19, 2020

<https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-ORDER.pdf>

California’s Roadmap to Modify the Stay-at-Home Order – Six Critical Indicators – April 14, 2020

<https://www.gov.ca.gov/wp-content/uploads/2020/04/California-Roadmap-to-Modify-the-Stay-at-Home-Order.pdf>

Update on California’s Pandemic Roadmap – Four Resilience Roadmap Stages – April 28, 2020

<https://www.gov.ca.gov/wp-content/uploads/2020/04/Update-on-California-Pandemic-Roadmap.pdf>

COVID-19 INDUSTRY GUIDANCE: Cardrooms, Satellite Wagering Facilities, and Racetracks – Initially Published on June 5, 2020 and Updated on July 2, 2020

<https://covid19.ca.gov/pdf/guidance-cardrooms-racetracks.pdf>

California Department of Public Health – State Public Health Officer

Essential Critical Infrastructure Workers List – March 22, 2020

<https://covid19.ca.gov/img/EssentialCriticalInfrastructureWorkers.pdf>

Guidance for the Use of Face Coverings – June 18, 2020

https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/Guidance-for-Face-Coverings_06-18-2020.pdf

United States Centers for Disease Control and Prevention

How COVID-19 Spreads – April 13, 2020 <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html#>

Interim Guidance for Businesses and Employers to Plan and Respond to Coronavirus Disease 2019 (COVID-19) – April 19, 2020

<https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>

Prepare Your Small Business and Employees for the Effects of COVID-19 – April 6, 2020

<https://www.cdc.gov/coronavirus/2019-ncov/downloads/guidance-small-business.pdf>

Reopening Guidance for Cleaning and Disinfecting – Public Spaces, Workplaces, Businesses, Schools, and Homes – April 28, 2020

https://www.cdc.gov/coronavirus/2019-ncov/community/pdf/Reopening_America_Guidance.pdf

Cleaning and Disinfecting Your Facility Fact Sheet – April 1, 2020

<https://www.cdc.gov/coronavirus/2019-ncov/community/disinfecting-building-facility-H.pdf>

What To Do If You Are Sick – April 28, 2020

<https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>

United States Occupational Safety and Health Administration

OSHA 3990-03 2020, Guidance for Preparing Workplaces for COVID-19

<https://www.osha.gov/Publications/OSHA3990.pdf>

United States Environmental Protection Agency

United States Environmental Protection Agency List N: Disinfectants for Use Against SARS-CoV-2 (COVID-19) – July 23, 2020

<https://www.epa.gov/pesticide-registration/list-n-disinfectants-use-against-sars-cov-2-covid-19>

Lancet Microbe 2020 Study

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Stability of SARS-CoV-2 in Different Environmental Conditions

Supplementary Appendix to: Chin A W H, Chu J T S, Perera M R A, et al. Stability of SARS-CoV-2 in different environmental conditions. Lancet Microbe 2020; published April 2, 2020.