

**TITLE 4. BUSINESS REGULATIONS
DIVISION 18.
CALIFORNIA GAMBLING CONTROL COMMISSION
CGCC-GCA-2020-02-E**

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

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

The California Gambling Control Commission (Commission) finds the readoption of regulations on an emergency basis requiring cardroom business licensees and third-party providers of proposition player services (TPPPS) 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 Commission has discussed the regulatory response to COVID-19 with the California Department of Public Health (CDPH) on multiple occasions. The Governor's office has also indicated that some public health restrictions may be lifted for a June 15, 2021 statewide reopening, if certain conditions are met, and the Commission expects that CDPH will likely issue new and/or revised guidance between now and the end of June 2021. The Commission, therefore, believes that it is appropriate to delay the start of permanent rulemaking until after CDPH, the Department of Industrial Relations (DIR), and the Commission have had an opportunity to evaluate post-reopening pandemic conditions.

SECTION 48 STATEMENT

Notice was provided on May 27, 2021 pursuant to Government Code section 11346.1(a)(2) and Title 1 California Code of Regulations (CCR) Section 48, which provides that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency must provide 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.

FINDING OF EMERGENCY

The objective of the proposed emergency standard is to reduce cardroom industry exposure to the virus that causes COVID-19 and therefore reduce COVID-19 illness and transmission.

The Commission finds that the adoption of this proposed emergency standard is necessary to address an emergency pursuant to Government Code section 11346.1(b)(1). The Commission finds that immediate action must be taken to avoid serious harm to the public peace, health, safety, or general welfare, for the reasons stated below.

NCY FACTS IN SUPPORT

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 (State of Emergency).

COVID-19 is a pandemic disease found in every county in California, every state in the United States, and nearly every country in the world. While a high percentage of individuals affected by COVID-19 will experience mild to moderate flu-like symptoms, some will have more serious symptoms and will require hospitalization, particularly individuals who are elderly or have underlying medical conditions. Serious symptoms of COVID-19 include shortness of breath, difficulty breathing, pneumonia, and organ failure, and can result in death. The virus can damage the lungs, heart, and brain and can cause long-term health problems.

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 multiple times since March 2020. A July 13, 2020 CDPH Order required all gambling establishments to close indoor operations until further notice.

The Commission is a regulatory agency that has rulemaking authority over California cardroom business licensees subject to this regulation. The Commission has conducted an evaluation of whether the proposed regulations are inconsistent or incompatible with existing state regulations. The evaluation concluded that the proposed regulations are not inconsistent or incompatible with existing state regulations. Further, the readoption of regulations is necessary for conformity with federal and State standards and for the immediate preservation of public health, safety, and general welfare. Benefits of this proposed regulation include mitigated risk to the exposure and mitigated risk of spread of a virus that is associated with a state of emergency or other order and requires physical distancing.

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 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 May 25, 2021, there have been 3,674,662 confirmed cases and 61,770 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 to immediately heed 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 any additional sectors 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
- Financial Services Sector
- Chemical Sector
- Defense Industrial Base Sector

Cardroom and TPPPS 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.

Cardrooms are included in Stage 3, and are designated as “higher risk workplaces”.

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 business licensees that operate within a gambling establishment, where applicable. The guidelines recommended an 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 and July 28, 2020. The Commission has acknowledged the guidance documents in developing the emergency sanitation plan regulations.

Notably, as guidance are not requirements, cardrooms were able to accept said guidelines, however, there is vagueness as to the enforcement component available when guidance is issued as the guidelines are not all mandatory provisions in which cardrooms must comply. Notably, of the cardrooms that resumed operations, observations indicate that the majority of cardrooms chose not to implement some or the majority of the said guidance while operating. The Commission provided consultation to the Governor's Office, CDPH, and the DIR on the guidelines provided and noticed the entities that the Commission would need to promulgate emergency regulations in order to enforce the guidelines issued.

On 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. In addition, the Public Health Order required all cardrooms and TPPPS business licensee operations to comply with the existing guidance, which was subsequently updated on July 28, 2020. However, these regulations seek to make specific the requirements and authority of the Department of Justice's Bureau of Gambling Control (Bureau), the Commission's enforcement arm, to enforce a Public Health Order.

During the initial statewide closure and subsequent directives, cardrooms closed in a manner that was problematic for regulators to ensure that proper cage activities and closures for operations occurred. With current regulations there are no 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.

The guidance however does not address the aforementioned crucial areas of public safety and closure procedures. For example, there is no specificity as to how employee training is to be implemented. These regulations do address these areas where applicable. In addition, the guidelines do not prescribe how specific requirements are to be followed, such as tracking which equipment is sanitized and how often, leaving the ability to enforce compliance with such requirements challenging. The proposed emergency regulations seek to eliminate these areas of confusion, or where room for interpretation of the guideline language exists.

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

CDC is responding to this COVID-19 respiratory disease pandemic spreading from person to person. According to the 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 the 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 three to 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 are unavailable). Also, frequently touched surfaces should be cleaned as outlined by salient guidance.

CDC 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.

Recent FOE Updates and Recent Developments

On April 6, 2021, Governor Newsom announced plans to reopen the state on June 15, 2021, if certain conditions are met. Current data indicates that many employees and members of the public will not be fully vaccinated on or before this date. This is especially true in areas of the state where vaccination rates are lower. In addition, CDPH reports that, among the population eligible for vaccination, the quartile with designated “least healthy” also has the lowest rate of vaccination. As of April 25, 2021, California reported that only 36.9% of that quartile had

been fully vaccinated, while 50.1% had received no initial dose. Additionally, among all demographic groups and regions of the state, some members of the public will have medical conditions that preclude vaccination or will refuse vaccination for other reasons.

Increased vaccinations have decreased COVID transmission and will continue to do so over time.

The Commission cannot predict with full accuracy whether or not the state of California will be ready to reopen on June 15, 2021 according to the factors set forth by the Governor, which will consider future vaccination supply and hospitalization rates. This will likely depend on a combination of vaccine manufacturing and distribution, Californians' vaccination rates, and the effect of SARS-CoV-2 virus variants. At this time, emergency regulations are necessary to continue providing worker protections, protecting the public health and safety, and furthering the State's recovery from the pandemic. Additionally, even if the state is able to reopen fully in June, COVID-19 is likely to remain a significant hazard throughout California.

AUTHORITY AND REFERENCE

Statutes of Authority

Business and Professions Code section 19811, subdivision (b), provides the Commission jurisdiction over the operation and concentration (limited), 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 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:

- 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 cardroom business licensee to contract with a TPPPS business licensee 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

In July 2020, gambling establishments in California were ordered to close to the public until further notice.

On September 2020, gambling establishments began to reopen to the public 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 cardroom business licensee and TPPPS business licensee 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.

These proposed regulations are necessary to provide the Bureau a clear outline of requirements, makes the requirements a cardroom and TPPPS must undertake during a state of emergency pertaining to viruses more specific, outlines all necessary areas the guidelines do not presently address to protect public health and safety, and provides consistency and stability to ensure public health and safety across the state of California for the businesses in which the Commission regulates.

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

- Hygiene practices for workers and the public;
- Employee training and documentation;
- 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;
- 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 was made in the first re-adoption 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.

Moreover, the term “gambling enterprise” was replaced by the term “cardroom business licensee” and the term “primary owner” is now replaced by the term “TPPPS business licensee”. As such, any historical reference to said terms is clarified and updated to the current and correct licensing terminology for said entities.

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

The Commission adopted changes to the existing versions of the Level III Supplemental Information forms (BGC-APP-034A and BGC-APP-034B) previously referenced in Section 12200 of Chapter 2.1 via regular rulemaking. The forms were updated via the Commission’s “Licensing” regulations package. Moreover, with the Commission’s Licensing regulations package, gambling businesses were removed from regulations. As such any reference to gambling businesses were removed through the re-adoption package. Concurrently, updates were made via the first re-adoption of these emergency regulations for the TPPPS Business Licensee 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.

Section 12292(a) requires the TPPPS business licensee prepare and maintain an emergency sanitation plan. Additionally, the section requires that emergency sanitation plans must be activated if the TPPPS business licensee participates in the play of any controlled game where the operating gambling establishment is subject to a state of emergency or other order and that state of emergency or other order is associated with a virus and includes 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 three to 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. TPPPS Business Licensee 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 Business Licensee enact the emergency sanitation plan under the specified circumstances and ensure employees be provided proper training.

Section 12292(a)(1)(A) requires that at a minimum, the emergency sanitation plan for a TPPPS must identify the job title(s) (including contact information such as a phone number) of the person(s) 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; and
- Conducting regular evaluations of the TPPPS Business Licensee's operations for compliance with the emergency sanitation plan while the plan is activated.

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.

Section 12292(a)(1)(B) requires that at a minimum, the emergency sanitation plan for a TPPPS business licensee must identify contact information for the local health department for the jurisdiction in which the gambling establishment is located.

Section 12292(a)(1)(C) requires that at a minimum, the emergency sanitation plan for a TPPPS Business Licensee must identify all contact information necessary for communicating information related to any outbreak among employees.

Sections 12292(a)(1)(B) and 12292(a)(1)(C) provide specific contact information for reaching the assigned employee and the local health department are 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.

Section 12292(a)(2) provides that at a minimum, the emergency sanitation plan for a TPPPS business licensee contains the following minimum employee and public health requirements:

- Require the Bureau, all of the TPPPS' contracted cardroom business licensees, and the local health department(s) with jurisdiction over the contracted cardroom business licensees must be notified of any presence of the virus associated with the state of emergency or other order identified in connection with an employee or TPPPS business licensee within 24 hours or a shorter time frame if required by a local entity with jurisdiction(s).

Requiring the TPPPS business licensee to notify the Bureau, the local health department(s) with jurisdiction, and contracted cardroom business licensee of any TPPPS business licensee whose employee has come into contact with the virus provides adequate contract tracing and ensures the appropriate authorities are aware of the incident. This will also reduce the likelihood of additional spreading of the virus by providing proper notice to the contracted cardroom business licensees so that it can identify and isolate any employee that may have been exposed to an infected TPPPS employee. 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.

Section 12292(a)(3) contains minimum sanitation standards that must be included in an emergency sanitation plan of a TPPPS, which are as follows:

- The sanitation of shared equipment must include the use of a disinfectant that is on the appropriate EPA list of registered disinfectants, a diluted household bleach solution at a ratio of five tablespoons (75 milliliters) of bleach per gallon (3.78 liters) of water, or an alcohol solution containing 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, pursuant to their sanitation plan, the TPPPS business licensee must maintain a record of all sanitizations performed. This record must include the date and time of each sanitation and the name of the employee who performed it.

In addition to being transmitted through respiratory droplets of an infected person, CDC has advised that it is unclear what proportion of COVID-19 infections are acquired through surface transmission and that it is difficult to provide definitively, in part because respiratory transmission from asymptomatic people cannot be ruled out. Furthermore, on non-porous surfaces, the COVID-19 virus may survive from days to weeks. Studies of cleaning focused on other microbes, indicate a 90–99.9% reduction of microbe levels could be possible depending on the cleaning method and the surface being cleaned. In addition to physical removal of COVID-19 and other microbes, surface cleaning can be expected to degrade the virus. Surfactants in cleaners can disrupt and damage the membrane of an enveloped virus like COVID-19.

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 the SARS-CoV-2 virus. CDC also states that diluted household bleach solutions at a ratio of five tablespoons 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 TPPPS business licensee for sanitation of shared equipment is maintained, tracked, and recorded.

New Section 12292(a)(4)(A) contains minimum training standards concerning procedures for providing all new employees and existing employees with an orientation or reorientation training, as applicable, concerning the emergency sanitation plan. Section 12292(a)(4)(B) requires that the sanitation plan training for a TPPPS business licensee contain information concerning the following topics:

- When a state of emergency or other order is active, information related to the virus for which the current state of emergency or other order was issued, including how to prevent the virus from spreading and which underlying health conditions, as identified in any guidelines, requirements, or instructions provided by any federal agency (e.g., the CDC or OSHA), any other state agency (e.g., the CDPH), or the local jurisdiction, may make certain individuals more susceptible to contracting the virus;
- When a state of emergency or other order is active, the importance of not coming to work if the employee or someone with whom the employee lives has been diagnosed with the virus for which the current state of emergency or other order was issued, or the employee is exhibiting symptoms of the virus for which the current state of emergency or other order was issued;

- When a state of emergency or other order is active, information on employer- or government-sponsored leave benefits that the employee may be entitled to receive related to the virus for which the current state of emergency or other order was issued;

Section 12292(b) requires 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). New employee orientation training may be conducted via an internal training program, an external training program, or by providing printed or electronic training materials. Upon activation of the emergency sanitation plan, each existing employee must receive a training reorientation of the sanitation plan. Employees must receive reorientation training during their first work shift following activation of the emergency sanitation plan. Reorientation training must be presented in-person, via simultaneous video teleconference, or via previously video-recorded material. Employees who received orientation or reorientation training in-person, via simultaneous video teleconference, or via previously video-recorded material within the previous three months immediately prior to activation of the emergency sanitation plan are exempt from this requirement.

The requirements of new Sections 12292(a)(4)(A), 12292(a)(4)(B), and 12292(b) are necessary to ensure employees continue to receive adequate, standardized training on a regular basis and are equipped with pertinent up-to-date knowledge needed to maintain a safe workplace. The requirements are consistent with state and federal guidelines.

New Section 12292(c) establishes record keeping requirements for each employee that completes the training for tracking purposes. Consistent with existing Commission regulations, 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.

Sections 12292(d) through (f) require an applicant for registration to submit an emergency sanitation plan to the Bureau as part of the application for licensure process. Further, the regulations require a TPPPS Business Licensee 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 Business Licensee 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 any time a TPPPS Business Licensee 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 cardroom business licensees, and are appropriate to apply to TPPPS Business Licensee for the purpose of these proposed regulations.

Section 12292(g) provides that compliance with the requirements of this section does not exempt the TPPPS Business Licensee from any other federal, state, or local laws or other requirements imposed by entities with jurisdiction over the contracted cardroom business licensee(s). This provision is necessary to provide clarity that this section only contains minimum requirements and does not exempt the licensee from complying with other laws or requirements that are 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 requirements that have been established by such authorities.

Cardroom Business Licensee Requirements

The Commission via the Commission's "Licensing" regulations package, OAL file number 2020-1012-02, made 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. The forms were updated in the Licensing regulations package to the (1) Business Entity: Supplemental Information Form (CGCC-CH2-06, Individual Owner/Principal: Supplemental Information, CGCC-CH2-07, and (2) Notice of Relocation (CGCC-CH7-02) and concurrently these forms via this Emergency Sanitation Plan emergency rulemaking readoption were updated to require an emergency sanitation plan 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 were 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 were proposed to Section 12364(b) 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 in the first readoption proposed minor, nonsubstantive changes to Section 12371(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 area 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.

Section 12004, and 12112, and 12114 incorporate by reference forms Notice of Contact Information Change," CGCC-CH1-01, which is attached in Appendix A to this Chapter, Business Entity: Supplemental Information, CGCC-CH2-06,, Individual Owner/Principal: Supplemental Information, CGCC-CH2-07, and Application for Owner Category License, CGCC-CH2-05 which as referenced above were updated via the Commission's Licensing Regulations package and concurrently updated via the first readoption of this regulations package to include the requirements of completion of an emergency sanitation plan.

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. A gambling establishment is the physical area or building where the controlled gaming occurs, which poses a risk to all employees and the public that enter. Cardroom business licensee 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 Cardroom business licensees enact an emergency sanitation plan under the specified circumstances and ensure their employees be provided proper training.

Section 12371(a) requires cardroom business licensees to prepare and maintain an emergency sanitation plan. The emergency sanitation plan must be activated if the operating gambling establishment is subject to a state of emergency or other order and that state of emergency or other order is associated with a virus and includes 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 three to 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. A gambling establishment is the physical area or building where the controlled gaming occurs, which poses a risk to all employees and the public that enter. Cardroom business licensee 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 Cardroom business licensees enact an emergency sanitation plan under the specified circumstances and ensure their employees be provided proper training.

Section 12371(a)(1)(A) requires that at a minimum, the emergency sanitation plan for a Cardroom business licensee 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; and
 - Conducting regular evaluations of the gambling establishment for compliance with the emergency sanitation plan while the emergency sanitation plan is activated.

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.

Section 12371(a)(1)(B) requires that at a minimum the emergency sanitation plan for a Cardroom business licensee must identify contact information for the local health department for the jurisdiction in which the gambling establishment is located.

Section 12371(a)(1)(C) requires that at a minimum the emergency sanitation plan for a Cardroom business licensee must identify all contact information necessary for communicating information related to any outbreak among employees.

Sections 12371(a)(1)(A) through 12271(a)(1)(C), 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.

Section 12371(a)(1)(D) requires the emergency sanitation plan provide procedures for when the gambling establishment is required by the state and/or public health officials to close. 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, the procedures must require the Cardroom business licensee to conduct an outstanding gaming chip liability count, which must be conducted within 24 hours of closure, and include 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 the integrity and accountability of funds is maintained pursuant to an emergency closure.

Section 12371(a)(2) provides minimum employee and public health requirements the Cardroom business licensee must include in their emergency sanitation plan, which are described below.

Subparagraph (A) requires the cardroom business licensee to

Subparagraphs (A)-(D) provide that the cardroom business licensee:

- Provide a list of areas and equipment to be sanitized that identifies the common contact areas and frequency for sanitization.
- 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, whenever practical and possible.
- Notify the Bureau, all contracted TPPPS Business Licensees, and the local health department(s), as required, with jurisdiction over the TPPPS Business Licensee
- Notify of any presence of the virus associated with the state of emergency or other order identified in connection with an employee or owner, pursuant to Business and Professions Code section 19851, subdivision (b), of the cardroom business licensee within 24 hours, or a shorter time frame if required by a local entity with jurisdiction(s), as necessary.
- Provide that upon return to a cage, all chips are strongly encouraged to be sanitized or kept out of rotation compliant with all requirements of all federal, state, and local entities

with jurisdiction as applicable for a time period sufficiently long to ensure that no viral threat remains (based upon the most current information available regarding the virus for which the state of emergency or other order was issued is associated).

The requirements of subparagraphs (A) through (D) 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. Further, requiring the cardroom business licensee to notify the Bureau, local health department, and contracted TPPPS Business Licensee that employs an employee who has come into contact with the virus, as required, provides proper enforcement for adequate contact tracing and ensures the appropriate authorities are aware of the incident. This will also reduce the likelihood of additional spreading of the virus by providing proper notice to the TPPPS Business Licensee so that it can identify and isolate any TPPPS employee that may have been exposed to an infected cardroom business licensee employee.

Section 12371(a)(3)(A) provides the following minimum requirements for the operation of gaming tables in a gambling establishment while an emergency sanitation plan is in effect:

- 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 once every twenty-four hours or an alternative timeframe if compliant with all requirements of all applicable federal, state, and local entities with jurisdiction.
 - Any card removed from the table must be disposed of, sanitized, or kept out of rotation twenty-four hours or an alternative timeframe if compliant with all requirements of all applicable federal, state, and local entities with jurisdiction days.

These requirements will help those participating in a controlled game, including employees and members of the public, to maintain safer health and safety practices. Requirements for safely handling, sanitizing or disposing of cards and chips used in a game helps ensure 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.

Sections 12371(a)(4)(A) through (B) provides the following minimum sanitation standards for the cardroom business licensee while an emergency sanitation plan is in effect:

- The sanitation of common contact areas and shared equipment must include the use of a disinfectant that is on the appropriate EPA list of registered disinfectants, or a diluted household bleach solution at a ratio of five tablespoons of bleach per gallon (3.78 liters) of water, or an alcohol solution with at least 70 percent alcohol that is appropriate for the surface being cleaned.

For any common contact area or shared equipment that requires sanitization, pursuant to the cardroom business licensee's sanitation plan, but is not recorded by the gambling establishment's surveillance system, the Cardroom Business Licensee must maintain a record of all sanitizations performed.

The requirements are necessary to ensure the 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 the SARS-CoV-2 virus. 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 cardroom business licensee for sanitation is maintained, tracked, and recorded.

Section 12371(a)(5)(A) contains minimum training standards concerning procedures for providing all new employees and existing employees with an orientation or reorientation training, as applicable, concerning the emergency sanitation plan.

Section 12371(a)(5)(B) requires that the sanitation plan training for a cardroom business licensee to contain information concerning the following topics:

- When a state of emergency or other order is active, information related to the virus for which the current state of emergency or other order was issued, including how to prevent the virus from spreading and which underlying health conditions, as identified in any guidelines, requirements, or instructions provided by any recognized federal, state or local governments, may make certain individuals more susceptible to contracting the virus;
- When a state of emergency or other order is active, the importance of not coming to work if the employee or someone they live with whom the employee lives has been diagnosed with a virus for which the current state of emergency or other order is issued, or the employee is exhibiting symptoms of the virus for which the current state of emergency or other order is issued; and,
- When a state of emergency or other order is active, information on employer- or government-sponsored leave benefits that the employee may be entitled to receive related to the virus for which the current state of emergency or other order is issued.

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

Section 12371(b) requires 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). New employee orientation training may be conducted via an internal training program, an external training program, or by providing printed or electronic training materials. Upon activation of the emergency sanitation plan, each existing employee must receive a reorientation of the sanitation plan following activation. Employees must receive reorientation training during their first work shift following activation of the emergency sanitation plan. Reorientation training must be presented in-person, via simultaneous video teleconference, or via previously video-recorded material. Employees who received orientation or reorientation training in-person, via simultaneous video teleconference, or via previously video-recorded material within the previous three months immediately prior to activation of the emergency sanitation plan are exempt from this requirement.

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 virus-based emergency.

Sections 12371(c) establishes 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.

Section 12371(d) through (f) requires an applicant for an initial cardroom business licensee owner license to submit an emergency sanitation plan to the Bureau as part of the initial license application process. Further, the regulations require a cardroom business licensee 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 cardroom business licensee 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 any time a cardroom business licensee 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.

Lastly, Section 12371(g) provides that compliance with the requirements of this section does not exempt the cardroom business licensee from any other federal, state, or local laws or other requirements imposed by entities with jurisdiction over the cardroom business licensee. This provision is necessary to provide clarity that this section only contains minimum requirements and does not exempt the licensee from complying with other laws 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.

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.

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Governor’s Press Release about order: <https://www.gov.ca.gov/2020/12/03/california-health-officials-announce-a-regional-stay-at-home-order-triggered-by-icu-capacity/>
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 - a. Blueprint for a Safer Economy – Activity and Business Tiers (page 6) – 5/18/2021
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