

CALIFORNIA GAMBLING CONTROL COMMISSION
FINAL STATEMENT OF REASONS
CGCC-GCA-2021-06-R

HEARING DATE: *(None Scheduled or Requested)*

SUBJECT MATTER OF PROPOSED REGULATIONS:

AB 120 Hearings Update

SECTIONS AFFECTED:

California Code of Regulations, Title 4, Division 18: Sections 12002, 12006, 12012, 12015, 12035, 12052, 12054, 12056, 12057, 12060, 12066 and 12134

UPDATED INFORMATION:

The Initial Statement of Reasons (ISOR), as published on September 17, 2021, are included in the file and are hereby incorporated by reference as if fully set forth herein.

A general change has been made the final text. On January 11, 2022, after the notice of this proposed action, a second file titled Southern California Gambling Control Act Hearings (OAL File Number 2021-1201-04) was approved. This package made changes to the form Notice of Defense, CGCC-CH1-03. While the majority of the changes made in this package have no interaction with this proposed action, the form date of the Notice of Defense was amended from New 05/20 to Rev. 08/21. As such, this proposed action has been amended to make its changes onto the Rev. 08/21 version of the form. This is a non-substantive change without any regulatory effect.

Amend Section 12002. General Definitions

This section provides general definitions for overall use in this division.

Subsection (aa) provides the definition of “GCA hearing” to mean the hearing referred to as “the meeting” pursuant to Business and Professions Code section 19870 and 19871. The original proposed action was modified to include this definition. This definition is amended to remove the reference to “the meeting.” This is consistent with the changes to Business and Professions Code sections 19870 and 19871, which were amended to now refer to the Commission’s hearings as evidentiary hearings.

Amend 12006. Service of Notices, Orders, and Communications.

Section 12006 provides standards for notices that are required by Commission regulation.

Subsection (b) provides that an applicant, licensee, or designated agent may request that the Commission provide communications electronically instead of mailing written communications. As originally noticed, this provision was modified to change the date of the Notice of Defense. However, as this form has been attached to Appendix A in Section 12052(c)(2)(E), the form

itself is a regulation and the constant re-referral to the version date is unnecessary as both Section 12052 provides it and the most recent version of the form can be found in the California Code of Regulations. As such, the proposed action has been modified to remove the form date.

Amend 12057. Default Decisions and Uncontested Applications.

Section 12057 provides the specifics of the Commission's default decision process.

Subsection (a) provides what happens if an applicant fails to submit a completed Notice of Defense according to the timelines provided on the form or affirmatively waives their right to an evidentiary hearing. As originally noticed, this provision was modified to change the date of the Notice of Defense. However, as this form has been attached to Appendix A in Section 12052(c)(2)(E), the form itself is a regulation and the constant re-referral to the version date is unnecessary as both Section 12052 provides it and the most recent version of the form can be found in the California Code of Regulations. As such, the proposed action has been modified to remove the form date.

Amend 12066. Final Decisions; Judicial Review.

Section 12066 provides when a decision by the Commission is final and what judicial remedies are available.

Subsection (b), paragraph (4), provides that an application is final if the application was approved with conditions, limitations, or restrictions, or was denied at a Commission meeting and the applicant affirmatively waives their rights to an evidentiary hearing or 30 calendar days has passed. During the modification of the form, as noted above, the additional version dates for the form Notice of Defense, CGCC-CH1-03, were removed. However, the version date in this paragraph was inadvertently left. As such, it has been removed from the final text for the reasons previously stated. This is a non-substantive change, without any regulatory effect, and ensures that all subsequent references to the form are consistent.

UNDERLYING DATA:

Technical, theoretical, or empirical studies or reports relied upon: None.

REQUIRED DETERMINATIONS:

LOCAL MANDATE:

A mandate is not imposed on local agencies or school districts.

BUSINESS IMPACT:

The Commission has made a determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This determination is based on the following facts or evidence/documents/testimony: This proposed action imposes no mandatory requirement on businesses. While the regulation provides an alternative timeline on how applications can be considered, it does not remove or significantly alter any existing process.

ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

IMPACT ON JOBS/NEW BUSINESSES:

The Commission has determined that this regulatory proposal will not have a significant impact on the creation of new jobs or businesses, the elimination of jobs or existing businesses, or the expansion of businesses in California. For this purpose, the consolidated small business definition provided in Government Code section 11346.3, subdivision (b), paragraph (4) was utilized.

The basis for this determination is that this proposed action imposes no mandatory requirement on businesses or individuals and does not significantly change the Commission's current practices and procedures. The proposed action provides an alternative timeline on how applications can be considered; it does not remove or significantly alter any existing process.

BENEFITS OF PROPOSED REGULATION:

This proposed action will have the benefit of providing the Commission a process to consider an application that saves the steps of a default decision or a hearing without applicant participation, should the applicant choose to waive their right to an evidentiary hearing.

CONSIDERATION OF ALTERNATIVES:

No reasonable alternative to the regulations would be more effective in carrying out the purpose for which the action is proposed, would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Set forth below are the alternatives that were considered and the reasons each alternative was rejected: No other alternatives were considered.

COMMENTS, OBJECTIONS OR RECOMMENDATIONS / RESPONSES:

The following public comments/objections/recommendations were made regarding the proposed action during the public comment periods:

I. 45-DAY WRITTEN COMMENT PERIOD

No written comments/objections/recommendations were received regarding the text of the proposed action during the 45-day written comment period that commenced September 17, 2021 and ended November 2, 2021.

II. 15-DAY WRITTEN COMMENT PERIOD

No written comments/objections/recommendations were received regarding the text of the proposed action during the 15-day written comment period that commenced November 4, 2021 and ended November 19, 2021.

III. COMMENT RECEIVED OUTSIDE THE PUBLIC COMMENT PERIODS

There were no comments, objections, or recommendations received outside any public comment period.

There were no further comments, objections, or recommendations received regarding the proposed action either within or outside any of the public comment periods.