

CALIFORNIA GAMBLING CONTROL COMMISSION
FINAL STATEMENT OF REASONS
CGCC-GCA-2021-07-R/C

HEARING DATE: *(None Scheduled or Requested)*

SUBJECT MATTER OF PROPOSED REGULATIONS:

Commission Fees Modernization Project

SECTIONS AFFECTED:

California Code of Regulations, Title 4, Division 18: Sections 12090, 12108, 12112, 12114, 12120, 12122, 12250, 12252, 12252.1, 12260, 12261, 12264, 12272, 12274, 12276, 12278, 12309, 12364, 12470, 12472, 12474, 12492, 12500, and 12503

UPDATED INFORMATION:

The prior emergency filings concerning the initial, first, and second readoption of the related emergency regulations (OAL Matter Numbers 2021-0927-02E, 2022-0323-01EE, and 2022-0624-02EE) are hereby incorporated by reference as if fully set forth herein. Additionally, the Initial Statement of Reasons, published on December 24, 2021, and the Supplement to Initial Statement of Reasons, distributed to interested parties on June 10, 2022, are included in the file and are hereby incorporated by reference as if fully set forth herein. The proposed regulation was modified and distributed with the Supplement to the Initial Statement of Reasons to interested parties on June 10, 2022 as part of this rulemaking process. The information contained therein is updated as follows:

PROPOSED ACTION:

The proposed changes within California Code of Regulations (CCR), Title 4, Division 18 are as follows:

CHAPTER 1. GENERAL PROVISIONS

ARTICLE 4. FEES

Adopt 12090. Schedule of Fees Required for Applications, Approvals, and Registrations.

New Section 12090 requires an applicant must submit the completed form and fee amount pursuant to the table provided in this section with their completed application. This section also specifies that the Bureau may request for additional background investigation deposits pursuant to other statutes or regulations. In essence, the prior subsections and forms wherein fees were listed have all been relocated to this section. This new section, which was not included in the original emergency filing related to this package, is proposed to provide a single place where the fees and deposits associated with various applications and requests can be found.

Each row of the proposed table identifies the form number, form name, a description of the type of fees associated with the form and dollar amounts.

The changes to this section in the Modified Text of the proposed regulations consist of nonsubstantive corrections that are technical and grammatical in nature to provide better readability.

CHAPTER 2. LICENSES AND WORK PERMITS

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

Amend 12108. Replacement of a Badge.

Section 12108 provides the process a licensee can use to request a replacement badge should one be lost, stolen, damaged, or if a person's name has changed.

Subsection (a) provides the specific conditions that must be met for the Bureau to issue a replacement badge. Paragraph (2) provides that the licensee must submit the form Badge Replacement Request, CGCC-CH2-01. The changes to this section in the Modified Text fix errors made in the initial 45-Day Text to correctly indicate the proposed changes using the pre-emergency text as the source document. This includes displaying the pre-emergency version date of the form (New 05/20) being amended and proposed language to attach the form to Appendix A of this chapter so that the form is correctly incorporated as part of the regulation. These nonsubstantive changes are necessary to correctly indicate the proposed changes using the pre-emergency text as the source document.

Form Badge Replacement Request, CGCC-CH2-01

The changes in the Modified Text to the form Badge Replacement Request, CGCC-CH2-01, fix errors made in the initial 45-Day Text to indicate the pre-emergency form version date and fee amount. These nonsubstantive changes are necessary to correctly indicate the proposed changes using the pre-emergency text as the source document.

ARTICLE 2. INITIAL AND RENEWAL LICENSES AND WORK PERMITS

Amend 12112. Initial License Applications; Required Forms.

Section 12112 provides the documents a person applying for an initial Commission approval must submit to the Bureau.

Subsection (a) provides that either the form Application for Employee Category License, CGCC-CH2-04, or the form Application for Owner Category License, CGCC-CH2-05, must be submitted. The change to this section in the Modified Text of the proposed regulations consist of nonsubstantive corrections to provide better readability.

Form Application for Employee Category License, CGCC-CH2-04
Section 2B

The changes in the Modified Text to the form Application for Employee Category License, CGCC-CH2-04, fix errors made in the initial 45-Day Text to correctly display the pre-emergency fee amounts for an initial application, renewal application, and additional temporary license fee (as applicable). These nonsubstantive changes are necessary to correctly indicate the proposed changes using the pre-emergency text as the source document.

Form Application for Owner Category License, CGCC-CH2-05

Section 1A

Section 1A, under the TPPPS endorsee license checkbox, “owner” is replaced with “endorsee licensee” to fix an existing error. This technical amendment is consistent with existing regulation and is a nonsubstantive change. These nonsubstantive changes to the form are necessary to correctly indicate the proposed changes using the pre-emergency text as the source document.

Section 1B

The changes to Section 1B of the form in the Modified Text fix errors made in the initial 45-Day Text to correctly display the pre-emergency fee amounts for an initial application, initial application with request for a temporary license, renewal application, temporary license fee (as applicable), and badge replacement request (as needed). Other nonsubstantive changes to this section fix errors made in the initial 45-Day Text to correctly indicate the proposed changes using the pre-emergency text as the source document. These nonsubstantive changes to the form are necessary to correctly indicate the proposed changes using the pre-emergency text as the source document.

Additionally, under the last bullet point, clarifying amendments for the owner-category licensee applicant to include a payment for a deposit to the Bureau pursuant to Title 11, CCR, Section 2037, for associated background deposits is proposed. This language has also been added as a bullet point under the columns for an initial application and initial application with request for a temporary license, as it applies to all owner-category licenses (not just cardroom business licensees). These changes are necessary to provide licensees notification of the existing statutory and regulatory requirements and as such, is a non-substantive change.

Amend 12114. Renewal License Applications; Required Forms.

Section 12114 provides the documents an applicant applying for a renewal of their Commission approval must submit to the Bureau.

Subsection (c) provides for the documents required for a complete application when an applicant is applying for a renewal license, as applicable. The change to this section in the modified text consists of removing the language “, and the applicable background investigation deposit required by Title 11, CCR, Section 2037.” This change is necessary to avoid duplication, as the requirement is already provided in existing subsection (c)(2).

CHAPTER 3. CONDITIONS OF OPERATION FOR TPPPS BUSINESSES

ARTICLE 1. GENERAL PROVISIONS

Amend 12250. Definitions.

This section has been withdrawn.

Amend 12252. TPPPS Annual Fee.

This section has been withdrawn.

Adopt 12252.1. TPPPS Annual Fee Calculation.

This section has been withdrawn.

ARTICLE 2. PLAYING BOOKS

Amend 12260. General Provisions

Section 12260 provides general requirements concerning hardcopy and electronic TPPPS Playing Books.

Subsection (j) requires all IT technicians employed by or contracting with a TPPPS business licensee to be licensed as TPPPS workers regardless if they are present in the gambling establishment or not. This requirement applies to any subcontractor, independent contractor, or employee thereof who is authorized to perform IT technician duties as defined in paragraph (7) of subsection (b) of Section 12250. The proposed change amends the specific reference to paragraph (7) of subsection (b) of Section 12250, to more generally refer to subsection (b) of Section 12250. This nonsubstantive amendment is consistent with the proposed changes as the terms under that section are being renumbered due to additional definitions being proposed therein.

Notably, the language being amended under this section (12260(j)) was inadvertently included under section (12261(j)) of the text noticed for the initial 45-day comment period. As such, the language and amendments to (j) have been appropriately moved to this section in the modified text version.

Amend 12261. Review of Playing Book Forms.

Section 12261 provides general information and requirements about the review and approval of a hardcopy playing book form. Additionally, this section provides the process for requesting the approval of a hardcopy playing book.

Subsection (b) provides which documents and fees are required to be submitted to the Bureau in order to request the review of their hardcopy playing book by completing the form Application for Playing Book Approval, which is attached in Appendix A of this chapter. The changes to this section in the Modified Text fix errors made in the initial 45-Day Text to correctly indicate the proposed changes using the pre-emergency text as the source document. These nonsubstantive changes are necessary to correctly indicate the proposed changes using the pre-emergency text as the source document.

Form Application for Playing Book Approval, CGCC-CH3-01

The changes in the Modified Text to the version date in the form header fix errors made in the initial 45-Day Text to correctly indicate the proposed changes using the pre-emergency text as the source document.

Section 1

The changes to Section 1 of the form in the Modified Text fix errors made in the initial 45-Day Text to correctly display the pre-emergency fee amounts for submitting a hard copy playing book form and an electronic playing book system.

Section 7

The changes to Section 7 of the form in the Modified Text fix errors made in the initial 45-Day Text to correctly display the pre-emergency language and fee amounts.

These nonsubstantive changes are necessary to correctly indicate the proposed changes using the pre-emergency text as the source document.

Subsection (j) and the proposed amendment, as previously discussed, have been correctly relocated in the modified text. Please see Section 12260 above for additional details.

Amend 12264. Review and Certification of Electronic Playing Book Systems.

Section 12264 provides the process by which an electronic playing book system is reviewed prior to its use.

Subsection (a) provides which documents and fees are required to be submitted to the Bureau in order to request the review of their electronic playing book system. The changes to this section in the Modified Text fix errors made in the initial 45-Day Text to correctly indicate the proposed changes to the form version date and amendment application processing fee amount using the pre-emergency text as the source document. These nonsubstantive changes are necessary to correctly indicate the proposed changes using the pre-emergency text as the source document.

ARTICLE 3. TPPPS CONTRACTS

Amend 12272. Review and Approval of TPPPS Contracts.

Section 12272 provides general requirements and the standard process by which a TPPPS business licensee can request their TPPPS contract be reviewed.

Subsection (a), specifies what must be included for a complete application for TPPPS contract approval. The changes to subparagraphs (A) and (D) of paragraph (2) in the Modified Text fix errors made in the initial 45-Day Text to correctly indicate the proposed changes to the form version date and application fee amount using the pre-emergency text as the source document. These nonsubstantive changes are necessary to correctly indicate the proposed changes using the pre-emergency text as the source document.

Form Application for Contract Approval to Provide Proposition Player Services, CGCC-CH3-02

The changes in the Modified Text to the version date in the form header fix errors made in the initial 45-Day Text to correctly indicate the proposed changes using the pre-emergency text as the source document.

Section 3

The changes to Section 3 of the form in the Modified Text fix errors made in the initial 45-Day Text to correctly display the pre-emergency language and fee amounts.

These nonsubstantive changes are necessary to correctly indicate the proposed changes using the pre-emergency text as the source document.

Amend 12274. Expedited Review and Approval of TPPPS Contracts.

Section 12274 provides a process by which a TPPPS business licensee can request their TPPPS contract be reviewed under a faster timeline than normal.

Subsection (c) provides which documents and fees are required to be submitted to the Bureau in order to make the request for an expedited review and approval of a TPPPS contract. The changes to paragraphs (1) and (4) in the Modified Text fix errors made in the initial 45-Day Text to correctly indicate the proposed changes to the form version date and application fee amount using the pre-emergency text as the source document. These nonsubstantive changes are necessary to correctly indicate the proposed changes using the pre-emergency text as the source document.

Amend 12276. Review and Approval of Amendments to TPPPS Contracts.

Section 12276 provides a process by which a TPPPS business licensee can request approval of amendments to an existing contract.

Subsection (a) provides which documents and fees are required to be submitted to the Bureau in order to make the request to amend an existing contract. The changes to this section in the Modified Text fix errors made in the initial 45-Day Text to correctly indicate the proposed changes to the TPPPS contract amendment application fee amount using the pre-emergency text as the source document. These nonsubstantive changes are necessary to correctly indicate the proposed changes using the pre-emergency text as the source document.

Amend 12278. Extension of TPPPS Contracts.

Section 12278 provides a process by which a TPPPS business licensee can request approval to have an existing TPPPS contract extended.

Subsection (a) provides which documents and fees are required to be submitted to the Bureau in order to make the request to extend an existing TPPPS contract. The changes to paragraphs (1) and (2) in the Modified Text fix errors made in the initial 45-Day Text to correctly indicate the proposed changes to the form version date and application fee amount using the pre-emergency text as the source document. These nonsubstantive changes are necessary to correctly indicate the proposed changes using the pre-emergency text as the source document.

CHAPTER 4. GAMBLING EQUIPMENT MANUFACTURERS OR DISTRIBUTORS

Amend 12309. Forms; Fees.

Section 12309 provides a process by which a person can apply for registration as a gambling equipment manufacturer or distributor. Subsection (a) provides that an applicant must submit the form Application for Registration of Manufacturers or Distributors of Gambling Equipment, BGC-025, which is attached in Appendix A to this chapter.

Form Application for Registration of Manufacturers or Distributors of Gambling Equipment, BGC-025

The changes in the Modified Text to the version dates in the form header and footer fix errors made in the initial 45-Day Text to correctly indicate the proposed changes using the pre-emergency text as the source document.

Item 11

The changes to Item 11 on page 3 of the form in the Modified Text fix errors made in the initial 45-Day Text to correctly display the pre-emergency fee amounts.

These nonsubstantive changes are necessary to correctly indicate the proposed changes using the pre-emergency text as the source document.

Subsection (c), paragraphs (1) and (2), provide the fee amounts for the initial and renewal registration of a Class A equipment manufacturer or distributor and an “antique collector” as specified. The changes in the Modified Text fix errors made in the initial 45-Day Text to correctly indicate the proposed changes to the form version date and application fee amounts using the pre-emergency text as the source document. These nonsubstantive changes are necessary to correctly indicate the proposed changes using the pre-emergency text as the source document.

CHAPTER 7. CONDITIONS OF OPERATION FOR GAMBLING ESTABLISHMENTS

ARTICLE 10. GAMING TABLES

Amend 12474.1. Temporary Reduction in Permanent Tables. (Removed)

Note: This section (12474.1) was adopted via the emergency rulemaking, Financial Reporting Requirements and Temporary Table Decreases (CGCC-GCA-2021-02-E, OAL File #2021-02-E), which expired on January 8, 2022, during the initial 45-day comment period for this regulation package. As such, Section 12474.1, which is no longer in effect, has since been removed from existing regulation and is no longer be included in the proposed text.

UNDERLYING DATA:

Technical, theoretical, or empirical studies or reports relied upon:

1. MGT Consulting. 2021. Department of Justice’s Bureau of Gambling Control and California Gambling Control Commission Fee Study Report of Findings
2. Excel Workbooks for Annual Fees and Licensing Application/Deposit Fees

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 will not have a 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 new mandatory requirements on businesses.

The Commission built a financial model for the current number of applications by fee type and license type to align the fees with the actual State operational costs for providing the related services pursuant to the Commission's fee study, which was approved by the Department of Finance on September 16, 2021. The findings reflect that the regulatory amendments for the costs decrease the amounts that the industry will pay as a whole by \$7,176,758 annually.

While some application costs may increase, as a whole, all of the total applicant costs charged by the Commission will decrease. Specifically, the Commission currently collects an average of \$3,194,600 in fees each year and, based on this proposed action, is expecting to collect an average of \$1,064,828 in fees each year. This would result in a savings of \$2,129,772 in annual application fees. This savings would impact both businesses and individual applicants.

The Commission is anticipating an additional savings of \$5,046,968 in TPPPS annual fees. This savings would directly benefit TPPPS businesses. It is important to note, this amount does not reflect the necessary annual fee adjustment for the cardrooms, which is now underway in a separate rulemaking package, pursuant to the recent chaptering of budget trailer bill SB 189 (Chapter 48, Statutes of 2022). Prior to SB 189 becoming effective, adjustments to cardroom annual fees were outside of the Commission's regulatory abilities and as such, were not included as part of this rulemaking package.

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 definition of a small business as defined by the federal Small Business Administration was utilized.

The basis for this determination is that this proposed action only adjusts fees and specified deposits collected for various functions performed by the Commission and the Bureau, which is unlikely to result in additional or reduced industry participation or performance.

BENEFITS OF PROPOSED REGULATION:

This proposed action will have the benefit of ensuring that the Commission and Bureau do not collect, through fees provided in the Commission's regulations, more or less funds than are necessary for the associated functions and State operational costs for which the fees have been collected.

CONSIDERATION OF ALTERNATIVES:

No reasonable alternative to the regulations would be more effective in carrying out the purpose for which the action is proposed. No reasonable alternative would be as effective as and less burdensome to affected private persons than the proposed action, nor 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 reasonable alternative has been developed or otherwise identified and brought to the attention of the Commission.

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 December 24, 2021, and ended at midnight on February 11, 2022, via the Notice of Extension of Written Comment Period published on January 14, 2022.

II. 15-DAY WRITTEN COMMENT PERIOD

No written comments/objections/recommendations were received regarding the Modified Text of the proposed action and Supplement to the Initial Statement of Reasons during the 15-day written comment period that commenced June 10, 2022, and ended at midnight on June 28, 2022.

III. COMMENT RECEIVED OUTSIDE THE PUBLIC COMMENT PERIODS

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