

completed its initial review of an application and prepared any recommendation for the Commission to when the Commission has completed issued its final decision on the application.

2. Providing the Commission with the authority to deny an application, or approve an application with limits, restrictions, or conditions, without an evidentiary hearing provided that the action of the Commission is stayed for 30 days to allow the applicant the opportunity to request an evidentiary hearing.

PROBLEM ADDRESSED:

The adoption of AB 120 requires that changes be made to the Commission’s regulations to ensure that its withdrawal and evidentiary hearing regulations remain consistent with the Act. Additionally, the new authority granted to the Commission in AB 120 requires regulations in order to be properly implemented. Without regulations to properly administer these provisions, the statute lacks the necessary clarity and specificity.

PURPOSE:

This proposed action has been prepared to modify the Commission’s regulations to be consistent with the Act as modified in AB 120 and to implement and make specific the new authority granted to the Commission.

ANTICIPATED 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.

PROPOSED ACTION:

This proposed action will make changes within the California Code of Regulations, Title 4, Division 18 as follows:

General Notes

A general change throughout has been made in all references to the current version of the Notice of Defense form, CGCC-CH1-03 (Rev. 09/21), as amendments to the form are being proposed as part of this regulatory package. This is a non-substantive change.

CHAPTER 1 GENERAL PROVISIONS.

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS.

Amend Section 12002. General Definitions

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

Subsection (g) provides the definition of “Bureau report” to mean the final determination by the Chief of the Bureau regarding his or her recommendation to the Commission on an application. The issuance of the Bureau report represents the transition of an application from Bureau investigation to the Commission’s consideration and is an important administrative step. Currently, this definition makes reference to “the final action by the department” as provided in

Business and Professions Code section 19869; however, that reference is being repealed with the expansion of the timeline to request the withdrawal of an application. As such, the reference to Section 19869 must be repealed, though a term representing the transition of an application from the Bureau to the Commission is still necessary. This provision is modified to provide a definition of Bureau report, which references the filing by the Chief of the Bureau of his or her written reasons, as provided in Business and Professions Code section 19868(b), regarding his or her recommendation of denial or approval with restrictions or conditions, or the notification to the Commission that the Bureau is recommending approval or is not issuing a recommendation of denial or approval with restrictions or conditions. This action by the Bureau represents the same transition of an application from the Bureau's investigation to the Commission's consideration.

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. This provision is modified to change the date of the Notice of Defense. This is a non-substantive change.

Amend 12012. Ex Parte Communication.

Section 12012 provides the Commission's guidelines for what is and is not an *ex parte* communication and what to do should an inappropriate communication occur.

Subsection (a) provides the definition for "*ex parte communication*" and "*ex parte.*" This definition includes a misspelling for the word "communication" which is being corrected. This is a non-substantive change.

Subsection (d) provides a list of communications that do not qualify as *ex parte*. Paragraph (2) provides that communications made at a public hearing or meeting that has been properly noticed do not qualify as *ex parte* communications. This provision is modified to replace "public hearing or meeting" with "evidentiary hearing or Commission meeting." Prior to AB 120, the Act referred to evidentiary hearings as hearings and generally referred to other meetings held by the Commission as hearings as well. Consistent with the changes in AB 120, the Commission's regulations are being amended to refer to Commission meetings and evidentiary hearings. As this is only a relabeling of meetings the Commission currently holds, this is a non-substantive change; however, the change in terms will provide additional clarity as it will better match the terms used in the Act and in other places in the Commission's regulations.

Subsection (e) provides when the Commission's *ex parte* regulations apply to an APA hearing. Paragraph (2) provides that they apply from the time the Commission has elected to hold a hearing until any decision is final. With the addition of new paragraphs within Section 12054(a), this provision is renumbered to reference the current provision's new number. This is a non-substantive change.

Amend 12015. Withdrawal of Applications.

Section 12015 provides the process by which an applicant can request, and the Commission considers, the withdrawal of an application.

Subsection (a) provides that a request may be made by an applicant, or his, her, or its designated agent. The provision provides that a request must be made prior to the Bureau report being submitted to the Commission. AB 120 repealed this timeline and replaced it with prior to the final action by the Commission. The regulations have been revised to reflect this change in the timeline, repealing the reference to the Bureau report and replacing it with a reference to Section 12066(b). Section 12066 provides the conditions under which the Commission's action upon an application is considered final. The change is necessary in order to keep the Commission's regulations consistent with the Act and provide clarity to an applicant on when they can submit a request for withdrawal.

Additionally, subsection (a) provides that the Executive Director, upon receipt of information or documentation provided by the Bureau will schedule the withdrawal request for Commission consideration. This provision is amended to provide that the information and documentation provided by the Bureau must be that information required by Business and Professions Code section 19869. This amendment links the requirements of the regulation back to the statutory provision that provides for the withdrawal request.

Subsection (d) provides that if a request for withdrawal is granted with prejudice, the applicant will not be eligible to apply again for a license or approval for one year. This provision has been modified to be consistent with the changes to AB 120, specifically, revising the restriction from "will not be eligible" to "will be ineligible." Additionally, an applicant will no longer be limited from applying for a license or approval, but will instead be ineligible to submit or renew an application for the one-year period.

Amend 12035. Issuance of Interim Renewal Licenses.

Section 12035 provides standards and conditions for issuing an interim renewal license.

Subsection (a) provides when the Commission will issue an interim renewal license to an applicant. Currently, the regulations provide that the Commission will provide the interim renewal license when a triggering event occurs, without considering the existing duration of the current license. The proposed action would provide that the Commission would instead provide the interim renewal license prior to the expiration of the existing license should a triggering event occurred. From a licensee's perspective, this change will have little to no effect, as they will have a valid license for the period that they are supposed to have a valid license; however, from the Commission's perspective, this change would mean that an interim renewal license would not be issued in situations where the applicant's current license has a sufficient duration remaining that the Commission can complete the evidentiary hearing process prior to its expiration.

Additionally, the language is revised to include "finding of suitability" separate from "other approval. This change to "license, work permit, finding of suitability, or other approval" makes

the language of this provision consistent with other similar language used within the Commission's regulations. It is a non-substantive change.

Finally, the proposed action would amend one paragraph and adopt two more paragraphs:

- Paragraph (1) provides that the Commission will issue an interim renewal license when it has elected to hold an evidentiary hearing on a renewal license, work permit, or other approval. With the addition of new paragraphs within Section 12054(a), this provision is renumbered to reference the current provision's new number. This is a non-substantive change.
- New paragraph (4) will provide that the Commission will issue an interim renewal license to an applicant for a renewal license, work permit, finding of suitability, or other approval when their requested renewal license, work permit, finding of suitability, or other approval has been issued with conditions, restrictions, or limitations at a Commission meeting. This provision is necessary, as in situations where the Commission elects to issue a renewal license, work permit, finding of suitability, or other approval, that decision is stayed for 30 calendar days to allow the applicant to request an evidentiary hearing. Should the applicant's current license, work permit, or finding of suitability, other approval expire during that time, they would be unable to participate in any activity that requires them to have an approved license, work permit, finding of suitability, or other approval.
- New paragraph (5) will provide that the Commission will issue an interim renewal license to an applicant for the denial of a renewal license, work permit, finding of suitability, or other approval at a Commission meeting. This provision is necessary, as in situations where the Commission elects to deny a renewal license, work permit, finding of suitability, or other approval, that decision is stayed for 30 calendar days to allow the applicant to request an evidentiary hearing. Should the applicant's current license, work permit, finding of suitability, or other approval expire during that time, they would be unable to participate in any activity that requires them to have an approved license, work permit, finding of suitability, or other approval.

Subsection (b) provides that the Commission will issue a new interim renewal license if the hearing process will not be concluded before the expiration of the current interim renewal license. Paragraph (3) provides that failure by the applicant to show good cause to support the delay may result in the Commission setting a time for a GCA hearing or retracting an application referred to an APA hearing. With the addition of new paragraphs within Section 12054(a), this provision is renumbered to reference the current provision's new number. This is a non-substantive change.

ARTICLE 2. PROCEDURES FOR HEARINGS AND MEETINGS ON APPLICATIONS.

Amend 12052. Commission Meeting; General Procedures; Scope; Notice; Rescheduling of Meeting.

Section 12052 provides information on how the Commission issues notices for the consideration of applications.

Subsection (c) provides what the Commission will include in a notice for any license, permit, finding of suitability, renewal, or other approval.

- Paragraph (1) provides what the Commission will include in a notice for a non-evidentiary hearing meeting, now renamed Commission meeting. Before AB 120, the Act referred to an evidentiary hearing as Commission meeting, so there was a need to differentiate between meetings that were for an evidentiary hearing and those that were not.
 - Subparagraph (C) provides notice that an individual who is making an oral statement might be required to be placed under oath. This provision is repealed. With the reclassification for provisions of Business and Professions Code section 19871 from Commission meeting to evidentiary hearing, its provision no longer applies to other types of Commission meetings.
- Paragraph (2) provides what the Commission will include in a notice for a GCA hearing. Subparagraph (E) is modified to change the date of the Notice of Defense. This is a non-substantive change.

Additionally, the Notice of Defense form has been amended.

- A new paragraph is proposed to be added to the form's instructions. This paragraph would provide the timeline for requesting an evidentiary hearing when an application has been approved with conditions, restrictions, or limitations, or has been denied at a Commission meeting. The instructions inform the applicant that the Notice of Defense form must be submitted to both the Commission and the Bureau, otherwise it will result in the Commission's decision becoming final. Additionally, the Notice of Defense must be received by the Commissions within 30 calendar days of the Commission meeting where the application was approved with conditions, restrictions, or limitations, or has been denied. This timeline of 30 days following the Commission meeting is provided in Business and Professions Code section 19870(c), as is the result of the decision becoming final. Inclusion on the Notice of Defense provides the applicant a clear notification of the submittal requirement along with the information necessary to either request an evidentiary hearing or affirmatively waive their right to an evidentiary hearing.
- The existing instructions on the form have been amended to provide clarification that the existing process will apply for applications that the Commission has referred to an evidentiary hearing. The change will not result in any change to the existing process and has been included to clarify when the existing timeline applies. Additionally, the timeline for submittal of the Notice of Defense has been changed from 21 days to 30 calendar days. This change is necessary to make the two submittal timelines consistent in order to avoid confusion by an applicant, as such confusion would result in their application resulting in a default decision without appeal.

Amend 12054. Consideration at Regular Commission Meeting.

Section 12054 provides a limited list of the possible actions that could be taken by the Commission at a non-evidentiary hearing meeting. This section's title has been changed to Consideration at a Commission meeting. This is a non-substantive change.

Subsection (a) provides a list of nine possible actions that the Commission could take at a non-evidentiary hearing meeting, now renamed Commission meeting. Before AB 120, the Act referred to an evidentiary hearing as Commission meeting, so there was a need to differentiate between meetings that were for an evidentiary hearing and those that were not. This proposed action would add two new items to the list of possible Commission actions. The authority of the Commission to take these two actions was added by AB 120, and their inclusion here is necessary in order for the regulations to reference these types of actions. The actions authorized by AB 120 are:

- Paragraph (2) provides that the Commission can issue a license, work permit, finding of suitability, or other approval with conditions, restrictions, or limitations.
- Paragraph (3) provides that the Commission can deny an application for a license, work permit, finding of suitability, or other approval.

Additionally, both of these provisions provide that if the application is for a renewal, the Commission will issue an interim renewal license. As the list of actions in subsection (a) is designed to provide an applicant with a list of possible results, it is consistent to reference this additional action here.

- Existing paragraphs (2) through (9) are renumbered to (4) through (11). This is a non-substantive change.

Amend 12056. Evidentiary Hearings.

Section 12056 provides the process when the Commission elects to hold an evidentiary hearing, including information such as limitations to discovery, costs, and the ability of the Commission to decide, at any time, that a referred application should be considered at a GCA hearing, APA hearing, or Commission meeting instead of the evidentiary hearing it had previously been referred to.

Subsection (a) provides that when the Commission has elected to hold an evidentiary hearing, that evidentiary hearing will by default be a GCA hearing, unless the Commission or Executive Director determines that the application should be considered at an APA hearing. Additionally, the provision provides that Commission or Executive Director will determine if the complainant will be the Bureau or an advocate of the Commission and that the complainant will present the evidence at the evidentiary hearing. This provision is modified to require that when an applicant has elected to request an evidentiary hearing following the Commission's denial of an application, or its approval with conditions, restrictions, or limitations, the evidentiary hearing process will follow the same process as when the Commission has elected to hold an evidentiary hearing. This amendment is necessary to specify what process will be followed when an applicant has requested an evidentiary hearing. Making the processes of referring an application to an evidentiary hearing the same provides consistency in the evidentiary hearing process.

Subsection (d) provides that the Commission reserves the ability to decide, at any time, that a referred application should be considered at a GCA hearing, APA hearing, or Commission meeting instead of the evidentiary hearing it had previously been referred to. With the addition

of new paragraphs within Section 12054(a), this provision is renumbered to reference the current provision's new number. This is a non-substantive change.

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. This provision is modified to change the date of the Notice of Defense. This is a non-substantive change. Additionally, a second use of "he, she, or it" has been removed as it is unnecessary to the grammatical structure of the sentence. This is a non-substantive change.

- Paragraph (5) is proposed to provide that if an 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, the Commission need only finalize the decision pursuant to Section 12055(b)(4). This is because new subsection (c) of Section 19870, provided in AB 120, states that the stay of the Commission's previous action ends if these conditions are met, meaning that the statute clearly provides that the Commission's previous decision becomes effective without any further action by the Commission being necessary.

Amend 12060. GCA Hearings.

Section 12060 provides the specifics of a GCA hearing.

Subsection (b) provides that if the Commission has elected to hold a GCA hearing, the Executive Director will provide notices to the various parties, as specified, 60 days in advance of the GCA hearing. This provision is amended to include when the Commission has made a decision on an application at a Commission meeting, and the applicant has requested an evidentiary hearing. This expansion is consistent with the amendment of Section 12056, which provides that once elected, the evidentiary hearing process will proceed the same regardless of whether the Commission elected to hold it or if the applicant requested it after the Commission has taken action at a Commission meeting.

Amend 12066. Final Decisions; Judicial Review.

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

Subsection (a) provides information on when a decision is final if the Commission accepts a request for withdrawal or a decision of abandonment is made. With the addition of new paragraphs within Section 12054(a), this provision is renumbered to reference the current provision's new number. This is a non-substantive change.

Subsection (b) provides a list of when a decision on an application is final.

- Paragraph (4) is proposed to provide 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. This is because new subsection (c) of Section 19870, provided in AB 120, states that the stay of the Commission’s previous action ends if these conditions are met, meaning that the statute clearly provides that the Commission’s previous decision becomes effective without any further action by the Commission being necessary.

Subsection (c) provides that a decision of the Commission denying an application or imposing conditions on a license is subject to judicial review, as specified. This provision is amended to clarify that judicial review only applies if the denial or approval with conditions was made after an evidentiary hearing. This amendment is consistent with the changes to Business and Professions Code section 19870, subdivisions (f), which now specifies that a decision of the Commission is only eligible for a judicial proceeding if the decision was after an evidentiary hearing. Additionally, “or restrictions” is added after “imposing conditions” as this additional term is used in Section 19870(f) and, without the regulation, might cause an applicant to believe that their application is not eligible for judicial review.

CHAPTER 2 LICENSES AND WORK PERMITS.

ARTICLE 4. INTERIM OWNER CATEGORY LICENSE.

Amend 12134. General Provisions.

Section 12134 provides a series of general provisions that apply to the interim owner category license process.

Subsection (c) provides that if the Bureau determines that the holder of an interim owner category license has become disqualified or may have violated a condition of their interim owner category license, the matter will be set for Commission consideration at a non-evidentiary hearing meeting, now renamed Commission meeting. Before AB 120, the Act referred to an evidentiary hearing as Commission meeting, so there was a need to differentiate between meetings that were for an evidentiary hearing and those that were not.

REQUIRED DETERMINATIONS:

LOCAL MANDATE:

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

UNDERLYING DATA:

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

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.

SPECIFIC TECHNOLOGIES OR EQUIPMENT:

The proposed action does not mandate the use of specific technologies or equipment.

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.

HEALTH AND WELFARE OF CALIFORNIA RESIDENTS:

It has been determined that the proposed action will protect the health, safety, and general welfare of California residents by aiding and preserving the integrity of controlled gambling.

WORKER SAFETY:

It has been determined that the proposed action will not affect worker safety because it does not pertain to working conditions or worker safety issues.

STATE'S ENVIRONMENT:

It has been determined that the proposed action will not affect the State's environment because it has nothing to do with environmental issues.

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.