

<b>GAMING DEVICE LICENSE DRAW</b>	Document Number:	1
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	Related Policies:	RSTF License Fee Invoicing RSTF Prepayment Refunds
	Approval:	Commissioners September 28, 2004

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Purpose**

The purpose of this policy is to establish guidelines for the conduct of gaming device license draws in accordance with the Tribal-State Gaming Compacts (Compact) of 1999, section 4.3.2.2(a)(1) and to ensure that the license prepayment fees are received in accordance with Compact section 4.3.2.2(e).

**2  
Revision  
History**

Date	Revision No.	Change	Ref. Chapter(s) Page(s)
6/12/02	1	Develop draw process	CMM Item #9
6/19/02	2	Additional directives to revise fee required for draw	CMM Item #7
6/19/02	3	Refunds for draw	CMM Item #7
6/19/02	4	Evaluate licenses	CMM Item #7
6/19/02	5	Reps from each tribe apply for license	CMM Item #7
6/19/02	6	Tribes have access to information used in draw	CMM Item #7
6/19/02	7	Tribes have opportunity to address issues	CMM Item #7
9/4/02	8	Chief Counsel explanation of draw process	CMM Item #7 Attachment A
12/18/03	9	Staff report	CMM Item #6
12/18/03	10	Extend time period	CMM Item #6
6/14/04	11	Draw in priority 4 only once	Email Directive
9/28/04	12	Created policy document	

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**Persons  
Affected**

Commissioners, Executive Director, Deputy Director of the Licensing and Compliance Division, Compliance Section staff, and Support Services Division staff.

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**Policy**

The policy of the Commission is to administer the gaming device license draw process for all participating Compact Tribes within the State of California in accordance with the Compact and to ensure:

- 4.1 Necessary documentation is prepared for noticing and conducting gaming device license draws, so as to provide a fair and unbiased procedure.
  - 4.2 Prompt refunds are made of fees deposited for gaming device licenses not awarded in the draw.
  - 4.3 Representatives of each Tribe applying for gaming device licenses have access to all relevant information used by the Commission staff in preparing its recommendation relating to that draw and will have an opportunity to provide input and address any issue concerning the draw to the Commission prior to the final decision of the Commission awarding gaming device licenses in the draw.
  - 4.4 The time period between the application deadline and the Joint Tribal-State Pre-Draw Meeting of participating representatives shall be at least two weeks in order to provide staff sufficient time to prepare the draw recommendations.
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**Definitions**

- 5.1 Gaming device license draw or draw – A process in which the Commission conducts a draw in order for the Compact Tribes to acquire licenses for gaming devices.
  - 5.2 Commission – State of California Gambling Control Commission.
  - 5.3 Compact – Tribal-State Gaming Compact of September 1, 1999.
  - 5.4 Compact section 4.3.2.2 – Describes the process for allocation of gaming device licenses by the Commission and the requirements for acquisition of licenses by a Compact Tribe.
  - 5.5 Compact Tribe – Tribe having a Compact with the State that authorizes the gaming activities authorized by the Compact of 1999.
  - 5.6 Executive Management – Executive management for purposes of this policy shall include the Executive Director, Deputy Director of the Licensing and Compliance Division, and the Chief Counsel.
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**Responsibility**

The Deputy Director of the Licensing and Compliance Division and staff as described within this document are responsible for ensuring compliance with the policy and the procedures listed below.

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Procedures

7.1 Request for Initiation of a Draw

- 7.1.1 Executive Management reviews all request letters received from Compact Tribes for initiating a draw.
- 7.1.2 Executive Management approves a request for a draw after taking into consideration availability of gaming device licenses and directs the Compliance Section staff to open a draw.

7.2 Opening a Draw

- 7.2.1 Draw notification and license application are sent out to all Compact Tribes that have Gaming Device license draw provisions in their Compact.

7.3 Receipt and Review of License Application

- 7.3.1 Support Services Division and Licensing and Compliance Division staff process and safeguard prepayment fees pending completion of a draw.
- 7.3.2 Compliance Section staff receives submitted license applications and copies of the prepayment deposit instrument and maintains a logs of all applications received.
- 7.3.3 Compliance Section staff will review and verify the accuracy and completeness of license applications and the prepayment deposit amount. Incorrect or incomplete license applications will promptly be resolved by calling and/or corresponding with the applicant Compact Tribe.
- 7.3.4 Compliance Section staff will ensure the number of authorized gaming devices does not exceed 2,000.
- 7.3.5 A condition of acquiring a license to operate gaming devices, is a non-refundable one-time prepayment fee that shall be required in the amount of \$1,250 per gaming device license being requested.

7.4 License Prioritization and Allocation

- 7.4.1 Compliance Section staff will allocate available licenses in accordance with the priority rules and limitations provided in Compact section 4.3.2.2(a)(3).
  - 7.4.2 The recommended allocation will be sent to Executive Management and Commissioners for review.
  - 7.4.3 The time between the application deadline and the Joint Tribal-State Pre-Draw Meeting shall be at least two weeks.
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## 7.5 Draw Prioritization

- 7.5.1 First Draw Priority will be given to participating Compact Tribes that have not drawn any licenses and did not operate any gaming devices as of September 1, 1999. A Tribe in this category can draw up to 150 gaming device licenses in a round of a draw for an authorization to operate up to a total of 500 gaming devices.
- 7.5.2 Second Draw Priority will be given to participating Compact Tribes that either operated fewer than 500 gaming devices as of September 1, 1999, or have drawn any licenses under the First Draw Priority. A Tribe in this category can draw up to 500 gaming device licenses in a round of a draw up to a total of 1,000 authorized gaming devices.
- 7.5.3 Third Draw Priority will be given to participating Compact Tribes that either operated between 501 and 1,000 gaming devices as of September 1, 1999, or have drawn any gaming device licenses under the Second Draw Priority. A Tribe in this category can draw up to 750 gaming device licenses in a round of a draw.
- 7.5.4 Fourth Draw Priority will be given to participating Compact Tribes authorized to operate up to and including 1,500 gaming devices, and that either have drawn any licenses under the Third Draw Priority or fail to meet the criteria for the First, Second, or Third Draw Priority. A Tribe in this category can draw up to 500 licenses, for a total authorization to operate up to 2,000 gaming devices.
- 7.5.5 Fifth Draw Priority will be given to participating Compact Tribes authorized to operate more than 1,500 gaming devices and that either have drawn any licenses under the Fourth Draw Priority or fail to meet the criteria for the First, Second, Third, or Fourth Draw Priority. A Tribe in this category is entitled to draw additional gaming device licenses not to exceed a total authorization to operate up to 2,000 gaming devices.
- 7.5.6 A Tribe may draw in a priority only once with the exception of the Fifth Draw Priority in which Tribes may draw until they reach the Compact limitation of 2,000 authorized gaming devices.
- 7.6 In no event, with the exception of new or amended Compacts entered into after December 31, 2000, can a Tribe operate more than 2,000 gaming devices in the aggregate.
- 7.7 If there are still licenses available at the end of each round within a draw, another round will be carried out until either requests from all participating Compact Tribes are satisfied or there are no more licenses available.

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In each succeeding round, the draw Priority for participating Tribes that advance in those rounds will be determined according to section 7.5 of this policy.

Rounds shall continue until Tribes cease making draws, at which time draws will be discontinued for one month or until the Commission is notified that a Tribe desires to acquire a license. A draw cannot be held unless there are gaming device licenses available to be awarded.

7.8 If licenses remain that cannot fulfill all requests within the same Priority, they will be evenly allocated to participating Compact Tribes with the same Priority. Licenses that cannot be evenly allocated will be issued to a Tribe based on a drawing of lots among the participating Compact Tribes in the same Priority to be conducted in the Joint Tribe-State Meeting.

7.9 Joint Tribal-State Meeting

7.9.1 Participating Compact Tribes are provided an opportunity to withdraw from the draw prior to the announcement of any preliminary Commission staff determination.

7.9.2 Participating Compact Tribes are provided the preliminary Commission staff determination and outcome of the draw and each participating Compact Tribes' license allocation.

7.9.3 In the event there is not an even number of licenses to be awarded to Tribes in a draw priority, a drawing of lots will be conducted to determine the awarding of the remaining licenses.

7.9.4 Participating Compact Tribes are provided the opportunity to address any issue concerning the draw with Commission staff at this meeting.

7.10 Commission Approval/Disapproval

7.10.1 The Commission staff recommendation of the draw will be submitted to the Commission for approval at one of its public meetings.

7.10.1(a) Participating Compact Tribes will have an opportunity to address the Commission at its public hearing concerning any issues related to the draw determination and application of the draw procedures.

7.10.1(b) The Commission will notify, in writing, each participating Compact Tribe's Tribal Council and Tribal Gaming Agency of its respective, Commission approved license allocation.

7.10.2 In the event the Commission disapproves, in whole or in part, the staff recommendation of the draw, Commission staff will follow the Commission's decision.

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7.10.2(a) If necessary, Commission staff will provide another recommendation, consistent with the Commission's decision, for Commission approval. The recommendation will be submitted to the Commission for approval at the same Commission meeting or the next, scheduled Commission meeting.

7.10.2(b) The procedures according to subdivisions (a) and (b) of subsection 7.10.1 of this Policy shall be followed.

7.11 After the Commission approves the draw allocation, licenses will be issued. Refund checks for funds deposited in excess of the amount needed for the issued licenses will be requested and mailed.

7.12 Cancellation or Surrender of Gaming Device Licenses

7.12.1 If any or all of a Tribe's Gaming Device licenses were canceled in accordance with section 4.3.2.2(e) or surrendered, the Tribe shall be eligible to draw licenses in the next highest draw priority from which they were last awarded licenses.

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