

TITLE 4.
CALIFORNIA GAMBLING CONTROL COMMISSION
NOTICE OF PROPOSED REGULATORY ACTION
Request for Regulations
CGCC-GCA-2022-01-R

NOTICE IS HEREBY GIVEN that the California Gambling Control Commission (Commission) is proposing to take the action described in the Informative Digest after consideration of all relevant public comments, objections, and recommendations received concerning the proposed action. Comments, objections, and recommendations may be submitted as follows:

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission at any time during the 45-day public comment period. To be eligible for the Commission's consideration, all written comments must be **received at its office no later than midnight on June 14, 2022. Comments sent to persons and/or addresses other than those specified under Contact Persons, or received after the date and time specified above, will be included in the record of this proposed regulatory action, but will not be summarized or responded to regardless of the manner of transmission.** Written comments relevant to the proposed regulatory action may be sent by mail, facsimile, or e-mail, directed to one of the individuals designated in this notice as a contact person.

PUBLIC HEARING

The Commission has not scheduled a public hearing on this matter. Any interested person, or his or her authorized representative, may request a hearing pursuant to Government Code section 11346.8. A request for a hearing should be directed to the person(s) listed under Contact Persons no later than 15 days prior to the close of the written comment period.

ADOPTION OF PROPOSED ACTION

After the close of the public comment period, the Commission, upon its own motion or at the instance of any interested party, may thereafter formally adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit oral or written testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 19801, 19802, 19803, and 19840 of the Business and Professions Code; and to implement, interpret or make specific sections 19841 and 19842 of the Business and Professions Code and sections 11340.6, 11340.7, 11346.4, and 11346.8 of the Government Code, the Commission is proposing to adopt the following changes to Chapter 1 of Division 18 of Title 4 of the California Code of Regulations:

INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

INTRODUCTION:

The California Gambling Control Commission (Commission) is the state agency charged with the administration and implementation of the Gambling Control Act (Act).¹ The Commission is authorized to adopt regulations as necessary to implement the Act.

Government Code sections 11340.6 and 11340.7 provide a process by which a member of the public can petition a state agency to consider the adoption, amendment, or repeal of a regulation. These statutes include timelines and requirements; however, they lack the specificity to be effectively implemented without clarification. This proposed action will provide the clarification necessary for the Commission to receive and consider these petitions.

EXISTING LAW:

Business and Professions Code section 19840 allows the Commission to adopt regulations for the administration and enforcement of the Act.

Section 11340.6 of the Government Code grants the right to file a petition with a state agency requesting the adoption, amendment, or repeal of a regulation. The petition is required to clearly and concisely state the substance or nature of the regulation, amendment, or repeal requested, the reason for the request, and the authority of the state agency to take the requested action.

Section 11340.7 of the Government Code provides that upon the receipt of a petition requesting the adoption, amendment, or repeal of a regulation, a state agency must, with 30 days of receipt, deny the petition or schedule the matter for a public hearing. The granting of the petition may be in part and the state agency may take any other action it may determine is warranted by the petition. Any decision of the state agency must be transmitted to the Office of Administrative Law for publication in the California Regulatory Notice Register at the earliest practicable date.

EFFECT OF REGULATORY ACTION:

This proposed action has been prepared to modify the Commission's regulations to make effective the petition requirements of Government Code sections 11340.6 and 11340.7. The proposed clarifications will ensure that the Commission has the necessary information to consider a petitioner's request on the merits of the request. Additionally, the timelines required

¹ Business and Professions Code, Division 8, Chapter 5, section 19800 et seq.

in Government Code sections 11340.6 and 11340.7 are clarified to ensure that the processes provide in the sections are not inconsistent with other statutory requirements.

ANTICIPATED BENEFITS OF PROPOSED REGULATION:

This proposed action will have the benefit of providing the people of California with a clear method to participate in this aspect of the rulemaking process by providing the opportunity to have any ideas to adopt, amend, or repeal a regulation considered by the Commission through a consistent and feasible process.

SPECIFIC PROPOSAL:

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

CHAPTER 1 GENERAL PROVISIONS.

ARTICLE 1. DEFINITIONS AND GENERAL PROCEDURES.

Amend 12008. Request for Regulations.

Section 12008 provides a process by which a person can submit a petition to the Commission for the purposes of requesting the consideration of the adoption, amendment, or repeal of a regulation. This section provides what is required to be submitted along with the timeline for review.

Subsection (a) provides that a person may submit a petition, resubmit an incomplete petition, or request reconsideration of a previously submitted petition by using the form Petition for Adoption, Amendment, or Repeal of Regulation, CGCC-CH1-05.

The form Petition for Adoption, Amendment, or Repeal of Regulation, CGCC-CH1-05, is a new form. The instructions include:

- That the form can be submitted by either mail to the Commission’s headquarters or by email to the Legislative and Regulatory Affairs Division. Additionally, it provides an option for the petitioner to receive any communications via email.
- The requested adoption, amendment, or repeal of regulations must be provided clearly and concisely.
- When completing the form, the petitioner can indicate “N/A” if a section does not apply to their request. Additionally, the form provides a notification that failure to provide the requested information may result in the petition being determined to be incomplete or denied.
- Directions are provided for Section 3 that indicate that the specific regulatory language must be provided.

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- Directions are provided for Section 4 that indicate the petitioner must provide a description of the specific regulatory changes. This includes a general statement explaining the purpose and goals of the petition, along with the necessity, purpose, and goal for each specific part of the proposal. The instructions recommend that the petitioner include a statement explaining any anticipated benefits of the proposal and what types of the costs might be incurred by the Commission, Bureau, industry, or others as a result of the approval of the petition.
- Finally, the instructions provide that all information be in blue or black ink and that if space is insufficient additional pages may be submitted.
- Section 1 requires the petitioner's contact information.
- Section 2 requires the type of the petition; is the petition a new petition (initial), a resubmittal of an incomplete petition, or the reconsideration of a previously decided petition. Additionally, if a resubmittal or reconsideration, the form requires the petition's unique identifying number.
- Section 3 requires the sections to be repealed and amended. Additionally, there is a section for the specific adoption and amended language to be provided.
- Section 4 requires the reason for the request.
- Section 5 requires the statutes that provide the Commission the authority to adopt the proposal along with the statutory sections that would be implemented, interpreted, or made specific.
- Section 6 requires the petitioner to acknowledge the requirements of the petition; provides information about what could result from the petition; and provides notice that even should the petition go through the rulemaking process it is still possible that the Commission will ultimately choose to not adopt the proposal.

Subsection (b) provides a restatement of the requirements of Government Code section 11340.6.

Subsection (c) provides that within 10 business days of receipt of the petition, the Executive Director will send an acknowledgement of receipt of the petition to the petitioner.

Subsection (d) provides that within 30 calendar days of receipt of the petition, the Executive Director will review the petition, assign it a unique identifying number, and provide that number to the petitioner. Additionally, the subsection provides that the Executive Director will do one of the following:

1. Paragraph (1) provides that if the Executive Director determines that the petition is incomplete, the petition will be returned to the petitioner with an explanation of how it is incomplete.

2. Paragraph (2) provides that if the Executive Director determines that the petition is complete, the petitioner will be notified that either:
- (A) The petition has been denied and will be provided an explanation of the denial; or,
 - (B) The petition has been approved, either in whole or in part, and if the Executive Director has determined that additional adoptions, amendments or repeals will be necessary.

Subsection (e) provides that if the Executive Director has determined that the petition has been approved, either in whole or in part, the Executive Director will provide notice to the Commission's rulemaking list and on its website, of the Commission's intent to issue a Notice of Proposed Action including a tentative public hearing date.

CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS:

The Commission has evaluated this regulatory action and determined that the proposed regulations are neither inconsistent nor incompatible with any other existing state regulations.

The proposed action is intended to make the statutes allowing a petition to adopt, amend, or repeal regulations to the Commission is effective and consistent with the needs of the Commission to consider a petition on its merits, as in required by statute, and is neither inconsistent or incompatible with either the Commission's regulations or any other existing state regulations pertaining to the petition or adoption of regulations.

COMPARABLE FEDERAL LAW:

There are no existing federal regulations or statutes comparable to the proposed regulations.

FISCAL IMPACT ESTIMATES

FISCAL IMPACT ON PUBLIC AGENCIES INCLUDING COSTS OR SAVINGS TO STATE AGENCIES OR COSTS/SAVINGS IN FEDERAL FUNDING TO THE STATE:

There would be no fiscal impact on the Commission or to any state agencies, including costs or savings or costs/savings in Federal funding.

NON-DISCRETIONARY COST OR SAVINGS IMPOSED UPON LOCAL AGENCIES: None.

MANDATE IMPOSED ON ANY 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 LOCAL AGENCY OR SCHOOL DISTRICT FOR WHICH PART 7 (COMMENCING WITH SECTION 17500) OF DIVISION 4 OF THE GOVERNMENT CODE REQUIRES REIMBURSEMENT: None.

EFFECT ON HOUSING COSTS: None.

IMPACT ON BUSINESS:

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: 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.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSON OR BUSINESS:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The ability to submit a petition currently exists, and while the proposal does provide clarity on what is required, it does not add to or reduce, the ability of a petition to be submitted.

EFFECT ON SMALL BUSINESS:

The Commission has made a determination that the proposed regulatory action would have no significant impact on small businesses as the proposed action only provides clarity to a currently exiting statutory process.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

IMPACT ON JOBS/NEW BUSINESSES:

The Commission has determined that this regulatory proposal will not have any impact on the creation of new jobs or businesses, the elimination of existing jobs or businesses, or the expansion of businesses in California.

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 only provides clarity to a process to submit for consideration a petition to adopt, amend, or repeal regulations.

BENEFITS OF PROPOSED REGULATION:

This proposed action will have the benefit of providing the people of California with a clear method to participate in this aspect of the rulemaking process by providing the opportunity to have any ideas to adopt, amend, or repeal a regulation considered by the Commission through a consistent and feasible 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

The Commission must determine that no reasonable alternative considered by the Commission or that has otherwise been identified and brought to the attention of the Commission would be more effective in carrying out the purpose for which the action is proposed, would be as effective 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.

INITIAL STATEMENT OF REASONS, INFORMATION AND TEXT OF PROPOSAL

The Commission has prepared an Initial Statement of Reasons and the exact language for the proposed action and has available all the information upon which the proposal is based. Copies of the language and of the Initial Statement of Reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Commission at 2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231.

AVAILABILITY AND LOCATION OF THE RULEMAKING FILE AND THE FINAL STATEMENT OF REASONS

All the information upon which the proposed action is based is contained in the Rulemaking File that will be available for public inspection and copying at the Commission's office throughout the rulemaking process. Arrangements for inspection and/or copying may be made by contacting the primary contact person named below.

You may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to one of the contact persons named below or by accessing the Commission's Website listed below.

CONTACT PERSONS

All comments and inquiries concerning the substance of the proposed action should be directed to the following **primary** contact person:

Joshua Rosenstein, Legislative and Regulatory Specialist
Legislation and Regulatory Affairs Division
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231
Telephone: (916) 274-5823

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Fax: (916) 263-0499

E-mail: jrosenstein@cgcc.ca.gov

Requests for a copy of the Initial Statement of Reasons, proposed text of the regulation, modified text of the regulation, if any, or other technical information upon which the proposed action is based should be directed to the following **backup** contact person:

Adrianna Alcala-Beshara, Deputy Director
Legislation and Regulatory Affairs Division
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220, Sacramento, CA 95833-4231
Telephone: (916) 261-4259
Fax: (916) 263-0499
E-mail: aalcalabeshara@cgcc.ca.gov

WEBSITE ACCESS

Materials regarding this proposed action are also available on the Commission's Web site at www.cgcc.ca.gov.