2026 UPDATE TO ANNUAL FEES

CGCC-GCA-2025-05-R

COMMENTS AND RESPONSES FOR PROPOSED REGULATIONS

I. 45-DAY WRITTEN COMMENTS

The California Gambling Control Commission (Commission) received the following written comments/objections/recommendations regarding the text of the proposed action during the 45-day written comment period that commenced December 26, 2025, and ended on February 9, 2026.

A. COMMENTS MADE ON THE PROPOSAL IN GENERAL.

These comments are made on the proposed action and are not directed at any specific regulatory section.

1. **Alan Titus, on behalf of Artichoke Joe's, and Meghan A. Wharton, on behalf of the California Gaming Association**: The commenters expressed a concern that the proposed action does not set fees in a manner that provides a fair or reasonable relationship to their respective burdens on, or benefits received from, the Commission's non-licensing regulatory activities.

   Mr. Titus stated that due to the methodology being a percentage fee based on the amount of revenue, the fee has the same look, feel, and effect of an income tax and the fact that it is used to generate an amount that is the same as the Commission's and the California Department of Justice, Bureau of Gambling Control (Bureau) costs does not change this nature. The commenter stated that revenue is not a proper measure of gaming activity, as all businesses can and do charge different rates for the same activity. The commenter further explains that some cardrooms include games with "no collection," and instead depend solely on payments from TPPPS business licensees, and this raises the question of whether all cardrooms are being treated the same or if the Commission's fee system favors cardrooms with "no collection" practices.

   Mr. Titus suggests that a fee charged by table would dispel these questions and would be altogether more appropriate.

   Ms. Wharton also noted that while gross revenue may be a measure to pay a fee, it is not a measure of the Commission's regulatory costs associated with costs to regulate the business. Ms. Wharton suggested that all entities should be charged their actual cost of service and the Commission failed to identify such a nexus to an entity's annual gross revenue. Ms. Wharton asserts that tying regulatory costs for cardrooms to tables and TPPPS to employees would more closely tie to their regulatory costs than the current process. Ms. Wharton states that the current process creates a system where larger earning businesses subsidize lower earning businesses, which is illegal.

Recommended Response: These comments were considered but were not incorporated. The Commission's annual fee methodology is not an income tax. The Commission uses the methodology provided to determine the costs of the Bureau and Commission and then divides these costs amongst the industries and then the individual licensees, as provided. The focus of the process is on the budgetary needs of the Bureau and Commission, not on the income of the licensees.

Furthermore, charging smaller entities with a different calculation is consistent with the requirements of the Act. Business and Professions Code section 19840, requires the Commission to "take into consideration the operational differences of large and small establishments." It is the Commission's view that dividing the annual fee proportionally amongst all entities, including those with a three-year average gross revenue under $1.5 million would be inconsistent with the requirements of Business and Professions Code section 19840. The $1.5 million threshold was chosen as a reasonable boundary between cardrooms of larger and smaller sizes. This fee threshold is fundamentally similar to the fee charged in *California Farm Bureau Fed'n v. State Water Res. Control Bd.* (2011) 51 Cal. 4th 421, 434 which set a minimum annual fee as the greater of $100, or $.03 for each acre-foot of water and purportedly charged fees to only 40 percent of those affected. Also, in *California Bldg. Indus. Ass'n v. State Water Res. Control Bd*. (2018) 4 Cal. 5th 1032, 1051 where the court noted that one stormwater fee which was allegedly greater than the costs to the stormwater area was only one part of eight program areas, which the court found was collectively obtaining revenue not greater than those reasonably necessary to administer the entire permit program.

Finally, Ms. Wharton's statements contending entities should be charged only for their individual cost of service are inconsistent with the goals of the Act. The argument is contradicted by numerous court cases cited in response to the first comment finding that regulatory fees "need not be finely calibrated to the precise benefit each individual fee payor might derive." (*California Farm Bureau Federation v. State Water Resources Control Bd.* (2011) 51 Cal.4th 421, 438; *California Building Industry Association v. State Water Resources Control Board* (2018) 4 Cal.5th 1032, 1052 ["regulatory fee…does not require a precise cost-fee ratio."]). Ms. Wharton's position also misinterprets the purpose of the annual fees, which are not a cost for service exchange between regulators and the industry, but rather, are intended to protect the health and safety of the public by sufficiently enabling the Department and Commission to fully carry out their duties as required by the Act.

2. **Alan Titus, on behalf of Artichoke Joe's**: The commenter expressed a concern that a fee based on gross revenue lacks transparency because if one learns a business' annual fee amount, they can calculate the business' gross revenue and gross revenue is confidential, forcing the fee amount to also be confidential. The commentor opined that fees should be public information and that government should work to be more transparent, not less, and should therefore change the basis of the annual fee.

   Recommended Response: This comment was considered but was not incorporated. The proposed action determines the total combined annual fee amount to be collected based

on the cost analysis described. The conclusion of the cost analysis results in either a fixed or percentage amount that allows a regulated entity to determine their individual anticipated impact. In this way, general clarity is provided to the public (by clearly showing the total amount to be collected) while individual clarity is provided to the regulated industry (by allowing them to determine their own anticipated impact) without providing confidential information. Therefore, the cost analysis, and proposed action, balances the need for public transparency while maintaining specific confidentiality.

3. **Meghan A. Wharton, on behalf of the California Gaming Association**: Ms. Wharton expressed concern about "GCF Operating Expenditures" being moved from cost pool 3 to cost pool 1 without explanation within the rulemaking file.

   Recommended Response: This comment was considered but was not incorporated. The Cost Pool descriptions are informational in nature and are used as supporting information in reference to regulations but are not incorporated into regulatory text. As such, a revision to the Cost Pool descriptions does not require a regulatory change. The Commission's operating expenses have consistently been in cost pool 1. The Bureau's operating expenses were moved from cost pool 3 to cost pool 1 for consistency.

4. **Meghan A. Wharton, on behalf of the California Gaming Association**: Ms. Wharton expressed concern that during discovery in the pending annual fees litigation, the California Gaming Association learned the Commission allocates all Commission and Bureau operating expenses to be recovered through annual fees, even though a substantial portion of these expenses support licensing activities.

   Recommended Response: This comment was considered but was not incorporated. Operating costs have always been recovered through annual fees since inception of the current fee system and were identified as line items on the fee invoice exhibits for 2023, 2024, and 2025. These costs were identified as "Cardroom Operating Expenditures" on the 2023 and 2024 invoice exhibits, and in 2025 were renamed to provide a more accurate description to "GCF Operating Expenditures." Commission regulations define "application cost" as all costs relating to the processing of an application. Operating costs are not linked to a specific application or request and are recovered through annual fees.

5. **Meghan A. Wharton, on behalf of the California Gaming Association**: Ms. Wharton expressed concern that the Gambling Control Fund has a surplus and the current rulemaking file fails to acknowledge the surplus and what would happen if the Commission were to collect annual fees that exceed funding requirements creating future surpluses.

   Recommended Response: These comments were considered but were not incorporated. The commentor is correct that there is a surplus in the Gambling Control Fund. Those surplus funds are earmarked for settlement of a class action lawsuit filed by the industry (*Lucky Chances, Inc. et. al. v. California Gambling Control Commission and Bureau of Gambling Control*, Sacramento Superior Court Case No. 34-2020-80003510-CU-WM-GDS) on behalf of all cardrooms and TPPPS business licensees who paid fees under the

prior fee system. The class action lawsuit seeks restitution and disgorgement to the plaintiffs of any fees that are determined by the court to have been overpaid to the Commission or Bureau. A settlement was preliminary approved by the court that will result in the return of the surplus funds to the industry. As such, the surplus is earmarked for the settlement. Additionally, there is no mention in this rulemaking file of how a future surplus would be addressed because the Commission has completely restructured its fee methodology to avoid an overcollection occurring. Further, the Commission conducts an annual cost and fee analysis, the results of which are included with each invoice for annual fees and has made and will continue to make regulatory amendments to ensure the fees align with costs and remain as accurate as possible.

6. **Meghan A. Wharton, on behalf of the California Gaming Association**:
Ms. Wharton expressed concern that the Commission's rulemaking file is incomplete. Ms. Wharton noted that the analysis and data are not included in the file, making it impossible to evaluate the reasonableness of the Commission's allocations and proposed fee amount. Ms. Wharton further notes that the rulemaking file references MGT's report but fails to include any records of meetings, templates, data, time estimates, and quantitative data analyses referenced by MGT.

Recommended Response: This comment was considered but was not incorporated. The Rulemaking file includes two pertinent attachments which include:

1. Cost Pools, Summaries, and Cost Calculations for Proposed Regulations
2. Cost Pool Breakdown (used for both the Proposed Regulations and the Alternative Considered)

These documents collectively show the Commission and Bureau's costs broken down by positions, hours, and costs per hour with included overhead and administrative costs. The two documents process these numbers through the six cost pools discussed in the Initial Statement of Reasons (ISOR) and the Notice of Proposed Action (NOPA). The first document reflects the proposed regulations and how the allocation of all the Bureau and Commission's costs are spread across the six cost pools and by entities (cardrooms and TPPPS). This document clearly ties the fees that are required by the Commission to be paid by cardrooms and TPPPS, which is ultimately collapsed into a percentage charged on each entity's revenue based upon the total gross revenue of each sector.

The second document further clarifies how these cost pools are broken down as allocated to the different positions held by staff at both the Bureau and the Commission, with the associated overhead and administration. Specifically, the document identifies the relevant positions along with the number of hours each position incurs in each cost pool as well as the rate attributed to that employee on an hourly basis. This is broken down by hours rather than position as some employees perform work in multiple different cost pools. In addition, there are certain unique and specific materials and supplies that are directly tied to specific cost pools. These positions, hours, and rates are categorized and totaled to equal the budgeted amount referenced in the first document.

B. AMEND SECTION 12092. ANNUAL FEE.

Section 12092 provides the process and timelines for a TPPPS business licensee to submit their annual fee.

1. **Jarhett Blonien** (1/6/2026): The commenter expressed a concern that the calculation process that determines a three-year average gross revenue does not account for newly formed or new scaled operators. The commenter noted that the initial statement of reasons does not clearly explain how the Commission calculates the three-year average for licensees with fewer than three complete years of operations.

   Recommended Response: This comment was considered but was not incorporated. The Commission's rulemaking action CGCC-GCA-2025-01-R (OAL Matter Number 2025-1023-02S) became effective April 1, 2026. This rulemaking action, in part, adopted Section 12092(h), which discusses how a business's gross revenue is applied in situations where less than three years of gross revenue is available.

2. **Jarhett Blonien** (1/6/2026): The commenter expressed a concern that the calculation process that determines a three-year average gross revenue does not account for businesses that change ownership and/or contracts. The commenter noted that the fee liability is tied to a licensee's historical gross revenue rather than to the continuity of the regulated operation. The commenter suggested that the proposed annual fee model rewarded the formation or acquisition of "new" entities while penalizing stable businesses.

   Recommended Response: This comment was considered but was not incorporated. The Commission's rulemaking action CGCC-GCA-2025-01-R (OAL Matter Number 2025-1023-02S) became effective April 1, 2026. This rulemaking action, in part, adopted Section 12091, which discusses how a business's gross revenue is applied in situations where the business licensee has been sold, assigned, transferred, or had some other disposition related to its entire operation.

C. AMEND SECTION 12094. ANNUAL FEE AMOUNTS.

Section 12094 provides the annual fee amounts required of cardroom business licensees and TPPPS business licensees.

1. **Jarhett Blonien** (1/6/2026): The commenter expressed a concern that the calculation process that determines a three-year average gross revenue makes assumptions about the revenue stability of TPPPS businesses that is inconsistent. Specifically, the commenter explained that TPPPS revenue is largely contract driven which can result in a significant change year-to-year with the signing of new or expiration of existing contracts.

   The commenter noted that due to these protentional shifts in gross revenue, the use of a three-year average diverges from reality.

Recommended Response: This comment was considered but was not incorporated. The Commission conducted an analysis of the gross revenue reported by TPPPS from 2019 to 2024, which provided four years of three-year average data and a total sample size of 61 data points (representing a three-year non-$0 reporting by a TPPPS). The Commission utilized three weighting methods (1/1.5/2, 1/1.5/2.25, and 1/2/3) to compare the effects on a three year model that weighted the most recent years of a TPPPS, and in each case only 1 of the 61 data points would a TPPPS change between the under $1.5 million category and the equal to or greater than $1.5 million category.

2. **Jarhett Blonien** (1/6/2026): The commenter recommended four alternatives for the Commission to consider:

   A. Utilize the most recent completed fiscal year revenue in cases where three completed fiscal years are unavailable.
   B. New licensees who acquire or assume an operation should utilize the existing operation's revenue history.
   C. Allow recalculation using a more current revenue base or provide credit to businesses due to substantial revenue decline due to an event.
   D. Determine a business's three-year average gross revenue using a weighted approach that emphasizes more recent years.

   Recommended Response: This comment was considered but was not incorporated. Specifically:

   A. This alternative matches the comment in I.B.1. See the response to that comment for further discussion.
   B. This alternative matches the comment in I.B.2. See the response to that comment for further discussion.
   C. Due to the nature of the rulemaking process, the amount due by a licensee must be clearly provided in regulation. The current billing process, described in Section 12092 provides a licensee with the knowledge of how their annual fee will be determined, when they will receive their invoice for the required payment amount, and when the amount of the invoice is due. Section 12094 provides the amount that will be due, either through a fixed amount or as a percentage.

      Fees are established through the rulemaking process, and a mid-year recalculation would not be feasible due to the requirements of the Administrative Procedure Act (APA). The Commission and Bureau utilize budget information and workload-based cost and volume data. Costs related to any direct fee or deposit are excluded, and the remaining cost data is then divided between the cardroom and third-party provider of proposition player services (TPPPS) industries utilizing "cost pools." Then, each industry's amounts are subdivided and charged to each business. However, if a single business were to later come to the Commission requesting a deferment or reduction in their annual fee, the Commission would be required to adjust upwards every other cardroom or TPPPS in order to ensure that the Commission collects an amount sufficient to cover both the Commission's and Bureau's costs as determined and

originally billed. If multiple businesses were to have such events, it could result in multiple recalculations and additional billings. This process would not be feasible as licensees would not have advanced knowledge of how to calculate their total annual fee for a given year.

D. This alternative matches the comment in I.C.1. See the response to that comment for further discussion.

3. **Jarhett Blonien** (1/28/2026): The commenter expressed the following concerns pertaining to the annual fee amount for non-operational licensees:

A. The commentor expressed a concern that there is a disparity between the non-operational fee charged to a cardroom when compared to a TPPPS, specifically that the cardroom fee is three times the fee of TPPPS. The commentor expressed a concern that the record does not provide an explanation.
B. The commentor noted that while having the non-operational licensee pay 50% of the active under $1.5 million fee might be administratively simple, there is no evidence to demonstrate workload that supports this number.
C. The commentor expressed concern that the rulemaking record does not identify the ongoing Commission or Department of Justice workload attributed to the annual fee paid by the non-operational annual fee.
D. The commentor expressed concern that a number of items within the cost pools are not applicable costs to a non-operational licensee and therefore do not justify the fee.
E. The commentor expressed concern about an additional set of items with the cost pools, similar to Item D. Specifically, the commentor suggests that the Initial Statement of Reasons does not sufficiently explain the differences in workload between operational and non-operational entities.
F. The commentor suggests that non-operational licensees should have some fee, but for thousands of dollars requires clearly identified regulatory services that are being delivered.
G. The commentor requested the following formation be included in the rulemaking record.
    - Definition of "Non-Operational Licensee" and how such status is determined.
    - Workload information for each cost pool.
    - Information to explain why the non-operational cardrooms fee is materially greater than non-operational TPPPS.
H. The commentor expressed a concern about the non-operational licensee fee being 50% of the under $1.5 million fee, similar to Item B. The commentor requested the amount be revised to be workload-based that better reflects the actual burden of non-operational licensees.

Recommended Response: These comments were considered but were not incorporated. Specifically:

A. The Commission disagrees that the rulemaking record does not describe the methods of determining the non-operational licensee fee. As provided in the regulation, both licensees with a three-year average gross revenue under $1.5 million and non-

operational licensees participate in the costs of the Commission and Bureau by paying a fixed fee (a non-operational licensee paying half the amount of a licensee whose three year-gross revenue under $1.5 million). The determination of those amounts is described, including the costs that go into their determination (see the description of the six cost pools). The six cost pools each describe how what costs go into their determination and how they are divided between industries. Many of the costs that go into the cost pools cover the basic costs of the Commission and Bureau's existence, such as rent, rulemaking actions, and the holding of Commission meetings. The fees are determined based on the usage of each of the two industries (as determined by their category of $1.5 million or more, under $1.5 million, and non-operational). Therefore, the differences by which the fees per industry are based on the usage by those industries of the non-application costs incurred by the Commission and Bureau.

B. The annual fee represents generalized costs or costs necessary for the continued function of the Commission and Bureau. Even without operating, a licensee has the benefit of these generalized services. Their applications are reviewed during a Commission meeting, if they call to ask questions someone at the Commission or Bureau will be available to assist them, and they receive newsletters and other forms of outreach. The 50% amount was decided because the MGT study recommended such, during Step 6 on page 21 of the report included in this rulemaking action (identified in the ISOR as item 1 under Underlying Data).
C. As previously discussed, the Commission and Bureau provide services to the industry that it regulates, costs that cannot be attributed to any specific licensee or application, and costs that are available to all licensees even if not operating. These costs are discussed in the explanation related to the cost pools.
D. The Commission agrees that the impact on the Commission and Bureau of non-operational licensees is less than on an operational business. This is reflected in the reduced annual fee. However, as previously discussed, there are costs in the continued operation of the Commission and Bureau that exist and for which a non-operational licensee benefits from. Based on the calculations within the cost pool process, each industry's impact is determined and a portion attributed to a non-operational licensee.
E. See response Item D, above.
F. See response Item B, above.
G. The Commission responds as follows:
    - Prior to April 1, 2026, the definition for non-operational licensee can be found in Section 12250(b)(13) for TPPPS and Section 12360(b)(11) for cardrooms. After April 1, 2026, a combined definition is found in Section 12002(ao). Status is determined when preparing the annual fee amounts for notice to the licensees based on the gaming revenue information submitted by the licensees.
    - The Commission has included information related to the determination of the cost pools as part of the rulemaking record in the Underlying Data items 3 and 4.
    - See response to Item A above.
H. See response to Item B above.