II. LICENSING

A. APPLICATIONS.

Section 1. No change.

Section 2. Other Commission Considerations for Licensing.

(a) In General. This chapter sets forth some criteria which the Commission will consider when deciding whether to issue a license to conduct gaming on an establishment, vessel, or cruise vessel on Mississippi jurisdiction bodies of water. The various criteria set forth may not have the same importance in each instance and other factors may present themselves in the consideration of an application for a license. The criteria are not listed in any order of priority.

(b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o): No change.

Section 3. Licenses And Other Commission Actions.

(a), (b), (c), (d), (e), (f), (g): No change.

(h) Preliminary Approval of Gaming Sites; Site Development Plans and Approval to proceed with development. The Commission may, in its discretion, grant preliminary approval of gaming sites and site development plans. The Commission has divided the preliminary approval process into three separate phases:

(1) Gaming site approval;

(2) Approval of the applicant's site development plans; and

(3) Approval to proceed with development.

Gaming Site Approval

With respect to gaming site approval, preliminary approval constitutes only the Commission's finding that the location complies with applicable gaming laws and regulations. Preliminary gaming site approval does not entitle the person receiving preliminary approval to approval of site development plans, nor does it constitute a license to engage in gaming or a right to a gaming license. Preliminary gaming site approval is a revocable privilege, and no holder acquires any vested right therein. Preliminary site approval is not subject to sale, assignment or transfer.

When presenting for approval the applicant's application for site approval, the following information, together with evidence satisfactory to the Commission in support thereof, must be included:

1. A survey indicating the specific location of the property.

2. The current use of any adjacent property as well as the location of the nearest residential area, church and school.

3. Evidence that all applicable zoning ordinances allow gaming at the proposed site.

4. A survey establishing the mean high water line must be provided at the time site approval is given which is performed by a qualified surveyor for performance of tidal surveys.

Gaming establishments in the three (3) most southern counties in the State of Mississippi are permitted to be permanent inland structures. No point in the gaming area may be more than eight hundred (800) feet from the nineteen (19) year mean high water line. Harrison County establishments south of Highway 90 may exceed the eight hundred (800) foot measurement up to the southern boundary of Highway 90. All public easements and rights-of-way for public streets and highways may be excluded from the eight hundred (800) foot measurement. Any point of reference used to determine the 800 foot distance from the mean high water line must be located on the applicant or licensee's premises. The applicant or licensee must own and /or lease the land that is contiguous both to the parcel used to conduct gaming and the point of reference used to determine the mean high water line, and this land must be shown to be an integral part of the project. The Commission has final authority in reviewing and approving each site as it pertains to meeting the requirements of this regulation.

Preliminary gaming site approval may be granted for a period not to exceed two (2) years; however, preliminary gaming site approval will automatically expire six (6) months from the date granted by the Commission if site development plans have not been approved by the Commission within that time.

Site Development Plan Approval

With respect to gaming site development plans the Commission's approval constitutes only the approval of the plan in concept. The applicant may not proceed with actual development until it receives ~~A~~ approval to proceed with development from the Commission. When presenting for approval the applicant's site development plans, the plan must include the following information, together with documentation to support this information:

Architectural plans or renderings showing details of all proposed construction and renovation for the project, together with a footprint of the project. Include a description of the construction and type of parking facilities, as well as parking lot capacity.

Commission approval of site development plans requires that the facility include a 500 car, or larger parking facility in close proximity to the casino complex and infrastructure facilities which will amount to at least 100% of the higher of the appraised value or construction cost of the casino. Such infrastructure shall include any of the following: 250 room, or larger hotel of at least a two star rating as defined by the current edition of the Mobil Travel Guide, a theme park, golf course, marinas, tennis complex, entertainment facilities, or any other such facility as approved by the Commission as infrastructure. As used herein, infrastructure facilities are not such items as parking facilities, roads, sewage and water systems, or civic facilities normally provided by cities and/or counties. The Commission may in its discretion reduce the number of rooms required, where it is shown to the Commission's satisfaction that sufficient rooms are available to accommodate the anticipated visitor load and parking spaces may also be reduced as needed for small casinos, provided that the 100% infrastructure requirement is otherwise met.

In cases where casinos that are not in operation are purchased which do not meet the parking and infrastructure requirements subsequent to February 20, 1999, the infrastructure requirement will be calculated on the higher of the appraised value of the casino barge or acquisition cost of the casino barge. For the purpose of determining compliance with this regulation, the Commission will, in its discretion, determine a fair and equitable method for calculating the construction cost of new casinos and acquisition costs for existing casinos. This regulation shall apply to any new applicant for a gaming license for a new gaming facility and to the acquisition or purchase of a licensee for which gaming operations have ceased prior to the time of acquisition or purchase. This regulation, however, shall not apply to any licensee which has been licensed by the Commission, or received a finding of site suitability from the Commission, prior to February 20, 1999 (or to any such licensee upon any licensing renewal after such date). For purposes of compliance with this regulation, the appraised value of any casino will be determined by an appraisal completed by an appraiser approved by the Executive Director prior to the appraisal. The Commission may require more than one appraisal and may obtain its own appraisal with the reasonable cost of same to be paid by the applicant.

Any change to the site development plan, or placement or design of the establishment, cruise vessel or vessel, shall be submitted in advance to the Executive Director for a determination of whether such change constitutes a material change. If the Executive Director determines that a material change has occurred, Commission approval is required for same.

Approval to proceed with development

With respect to obtaining the Commission's approval to proceed with development, the following information, together with documentation to support this information, shall be submitted to the Commission:

(1) No change.

(2) No change.

(3) No change.

(4) No change.

(5) No change.

The application for a Gaming Operator's License shall be filed no later than ninety (90) days after the Commission grants ~~A~~approval to proceed with development.

Opening of a Casino

Before any gaming facility may open to the public, all infrastructure requirements must be fully operational. Site development shall be completed in accordance with the approved site development plan and be ready for operation within the preliminary gaming site approval time period. Gaming site approval may be extended, within the discretion of the Commission~~, for a period not to exceed six (6) months total, provided site development is at least eighty-five percent (85.0%) complete~~.

These amendments shall apply to all existing, pending, renewal and new applicants for a license site approval.

Section 4. Information Required; Failure To Provide Complete And Accurate Information Constitutes Grounds For Delay Or Denial Of Application; Amendments.

(a) In addition to the information required by ~~Section 37 of the Mississippi Gaming Control Act~~ Miss. Code Ann. § 75-76-73, an applicant shall provide to the Executive Director, on forms furnished by the Executive Director, complete information regarding the proposed operation, including but not limited to, a certification that any establishment, vessel or cruise vessel to be used by the proposed operation has been inspected and approved by all appropriate authorities as soon as such certification is complete, fingerprints of each individual applicant, the nature, source, and amount of any financing, the proposed uses of all available funds, the amount of funds available after opening for the actual operation of the establishment, and economic projections for the first three (3) years of operation of the establishment. In addition, the applicant shall provide complete information regarding his or her background for the ten-year period preceding submission of the application.

(b), (c), (d), (e), (f): No change

Section 5. Additional Application Information Required. Every application to become a license holder shall contain the following additional information:

(a) Give actual establishment, vessel, or cruise vessel blueprints, including a layout of each ~~deck~~ floor stating the projected use of each area.

(b) State whether the establishment, vessel, or cruise vessel has been or will be certified by the United States Coast Guard, if applicable.

(c), (d), (e), (f), (g), (h): No change

(i) Describe the physical location, size and floor plan of the section of the ~~excursion gaming~~ establishment, vessel, or cruise vessel reserved for patrons under 21 years of age. Provide plans for activities and staffing of this section.

(j), (k), (l), (m): No change

B. QUALIFICATIONS.

Section 1. No change.

Section 2. Location

(a) The legislature has declared gaming operations legal if licensed by the Commission and conducted upon establishments, vessels and cruise vessels located in certain statutorily described areas where voters have not voted to prohibit gaming. The Commission, as authorized by law and in conformity with the power and responsibility vested in it by the legislature, finds that gaming licensees may operate at the following locations. Nothing in this section shall act to prevent the Commission from denying a gaming license or preliminary site approval based on the unsuitability of a particular site.

(1) No change.

(2) No change.

(3) Establishments. The part of the structure in which licensed gaming activities are conducted is located entirely in an area which is located no more than eight hundred (800) feet from the mean high-water line (as defined in Section 29-15-1) of the waters within the State of Mississippi, which lie adjacent to the State of Mississippi south of the three (3) most southern counties in the State of Mississippi, including the Mississippi Sound, St. Louis Bay, Biloxi Bay and Pascagoula Bay, or, with regard to Harrison County only, no farther north than the southern boundary of the right-of-way for U.S. Highway 90, whichever is greater; and

In the case of a structure that is located in whole or part on shore, the part of the structure in which licensed gaming activities are conducted shall lie adjacent to state waters south of the three (3) most southern counties in the State of Mississippi, including the Mississippi Sound, St. Louis Bay, Biloxi Bay and Pascagoula Bay. When the site upon which the structure is located consists of a parcel of real property, easements and rights-of-way for public streets and highways shall not be construed to interrupt the contiguous nature of the parcel, nor shall the footage contained within the easements and rights-of-way be counted in the calculation of the distances specified in the above paragraph.

(b) No change.

(c) No change.

Section 3. No change.

Section 4. Safety Standards.

(a) Fire Safety Standards. Any establishment to be constructed for dockside gaming that will be permanently moored or on a land based structure, will be required to meet (1) the fire safety standards of the Mississippi Fire Prevention code, Section 45-11-101, (2) additional requirements for places of amusement as listed in Sections 45-11-21 through 45-11-55 of the Mississippi Code, (3) the fire safety standards contained in the National Fire Protection Association ("NFPA") Standard 307, Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharfs, and (4) the NFPA Life Safety Code. However, to the extent local fire safety standards exceed the foregoing standards, the local standards must be followed.

(b) No change.

(c) Building Standards - Any establishment to be constructed for ~~dockside~~ gaming ~~that~~ will be ~~permanently moored will be~~ required to meet the Southern Standard Building Code. If the local county or city has a building code, then the local code will be the applicable standard.

(d) No change.

Section 5. No change.

Section 6. Change Of Vessel, Location, Home Port Or Excursions.

A licensee shall not change its establishment or its vessel, the location of its establishment or vessel, ~~the location or~~ home port of its vessel, or the routes, frequency, or duration of any excursions without the prior approval of the Commission. Notwithstanding the foregoing, the Executive Director may allow a licensee to temporarily change the routes, frequency, or duration of excursions pending final approval by the Commission.

Section 7. **No change.**

Section 8. **No change.**

Section 9. **No change.**

Section 10. **Hurricane Preparedness Policy.**

It is the policy of the Mississippi Gaming Commission to require, as a condition of licensure, that cruise vessels utilized for gaming on the Mississippi Gulf Coast, in the Biloxi Bay or in the Bay of St. Louis, that are not self-propelled, to be moored to withstand a Category 4 hurricane with 155 mile per hour winds and 15 foot tidal surge. Casinos will ~~also~~ be required through their State license or relicense application to follow emergency declarations made by local or State emergency management officials.

Section 11. **Hurricane Emergency Procedure - Casino Operations.**

(a) No change.

(b) No. change.

(c) GENERAL. This regulation requires that establishments, cruise vessels utilized for gaming effected by Section 10, Hurricane Preparedness Policy, shall be subject to this regulation. The purpose of this regulation is to describe the requirements casino management shall incorporate into their company emergency plan for use in closing and reopening the casino establishments, or cruise vessels in the event of a hurricane situation.

In order to provide the most effective response to hurricane threats, coordination shall be through the MGCHCC. This office will be in close and constant contact with MEMA and local civil defense through the Harrison County Emergency Operations Center.

In the event of an emergency under this regulation, each casino shall have immediately available to MGC personnel the closure procedures as outlined and approved by this agency to be used as a check list for closure.

(1) The response activities presented here are applicable to hurricane threats only and will provide adequate direction for casino management and will affect only the casino establishments and cruise vessels. All land based facilities will receive direction from the Civil Defense Coordinator. To expedite action, these directions may be passed through the MGCHCC.

(2), (3), (4), (5), (6), (7), (8): No change

(9) Each casino shall be responsible for the following recovery action:

(A) No change.

(B) Assess damage to establishment, casino vessel and supporting structures.

(C), (D), (E), (F), (G), (H), (I), (J), (K): No change.

(d) If EOC personnel find that the risk of completing closure requirements will place casino personnel in imminent danger of loss of life, the Executive Director of the MGC or his designee may, at their discretion, override certain closure procedures or order immediate evacuation of the cruise vessel or establishment.