

CHAPTER 40A

GENERAL PROVISIONS

SUBCHAPTER 1. CONSTRUCTION AND APPLICATION OF RULES

19:40A-1.1 Authority

This chapter is issued under and pursuant to the authority of the Casino Control Act, constituting P.L. 1977, c. 110, as amended.

19:40A-1.2 Definitions

(a) The following words and terms are defined in the New Jersey Casino Control Act (P.L. 1977, c. 110, as amended) and are used in the rules of the Commission as defined in that Act:

"Applicant"

"Application"

"Attorney"

"Casino" or "licensed casino"

"Casino key employee"

"Casino license"

"Chairman" and "Commissioner" or "member"

"Commission"

"Director"

"Division"

"Family"

"Gaming" or "gambling"

"License"

"Licensee"

"Operation"

"Party"

"Person"

"Property"

"Registrant"

(b) The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" or "Casino Control Act" means the New Jersey Casino Control Act (P.L. 1977, c. 110, as amended).

"Casino licensee" or "licensed casino" means the holder of any license, issued pursuant to the Casino Control Act, that authorizes the ownership or operation of a casino and, if applicable, of a casino simulcasting facility.

"Casino simulcasting" is defined by the Division at N.J.A.C. 13:69M-1.2.

"Casino simulcasting facility" is defined by the Division at N.J.A.C. 13:69M-3.1 through 3.4.

"Interested person" means any person whose specific legal rights, duties, obligations, privileges, benefits, or other specific legal relations are affected by the adoption, amendment, or repeal of a specific rule or by any decision, order, or ruling of the Commission.

19:40A-1.3 Construction and amendments

- (a) This chapter shall be construed in accordance with generally accepted principles of statutory construction, including those set forth in N.J.S.A. 1:1-1.1 et seq.
- (b) This chapter shall be liberally construed to permit the Commission to effectively carry out its statutory functions and to secure a just and expeditious determination of issues properly presented to the Commission.
- (c) Nothing contained in this chapter shall be construed as to conflict with any provision of the New Jersey Casino Control Act or any other applicable statute.
- (d) In special cases and for good cause shown, the Commission may relax or permit deviations from any rule in this chapter.
- (e) Whenever any provision of this chapter requires that an act or event occur on a specified day or date, and such day or date falls upon a Saturday, Sunday, or legal holiday, or upon a day in which the State is closed as the result of a declared state of emergency, such provision shall be construed to refer to the next business day immediately following such day or date.

19:40A-1.4 Severability and preemption

If any clause, sentence, subparagraph, paragraph, subsection, section, subchapter, or other portion of this chapter or the application thereof to any person or circumstance shall be held to be invalid, such holding shall not affect, impair, or invalidate the remainder of this chapter or the application of such portion held invalid to any other person or circumstances, but shall be

confined in its operation to the clause, sentence, subparagraph, paragraph, subsection, section, subchapter, or other portion thereof directly involved in such holding or to the person or circumstance involved therein.

19:40A-1.5 Practice where regulations do not govern

In any matter not governed by this chapter, the Commission shall exercise its discretion, so as to carry out the purposes of the Act.

SUBCHAPTER 2. ORGANIZATION AND OPERATION OF THE COMMISSION

19:40A-2.1 Organization

(a) The Commission shall consist of three members appointed by the Governor with the advice and consent of the Senate.

(b) The officers of the Commission shall include a Chairman and a Vice-chair who shall be members of the Commission, and an Executive Secretary who shall not be a member of the Commission.

1.The Chairman, as chief executive officer of the Commission, shall schedule and preside at all meetings of the Commission; shall appoint the members of the Commission to such committees as the Commission may, from time to time, establish; shall have the authority to accept for filing all applications; shall have the authority to incur on behalf of the Commission such expenses as the Commission shall have approved in its operating budget; shall have general supervision, direction, and control of the affairs of the Commission; and shall perform such other duties as are incidental to the office and as may be assigned, from time to time, by the Commission.

2.The Vice-chair shall be elected annually at the organizational meeting of the Commission by a majority of the full Commission. He or she shall possess such powers and shall perform such duties as may be assigned, from time to time, by the Commission. In the absence or inability of the Chairman to serve or in the event of a vacancy in the office of Chairman, the Vice-chair shall be empowered to carry out all of the responsibilities of the Chairman.

3.The Executive Secretary shall be appointed by the Commission and shall serve at the pleasure of the Commission. The Commission may, in its discretion, appoint its General Counsel or such other qualified member of the staff to serve as and perform the duties of the Executive Secretary. Under the supervision of the Chairman, the Executive Secretary shall be responsible for the conduct of the administrative affairs of the Commission and shall have custody of the Commission's seal and its official records. The Executive Secretary shall keep a record of the proceedings at all meetings of the Commission in a minute book and a resolution book or both, to be kept for the purpose, which shall be open at all reasonable times to inspection by any member of the Commission. He or she shall cause a verbatim transcript to be made of the public meetings of the Commission, according to law. He or she shall affix the seal of the Commission to all papers authorized to be executed by the Commission requiring such seal to be affixed. He or she shall cause copies to be made of the verbatim transcript of the public meetings, and of all minutes, resolutions, and other records and shall cause such copies to be filed with the appropriate authorities according to law. He or she shall give certificates under the seal of the Commission to the effect that such copies are true copies and all persons dealing with the Commission may rely on such certificates. He or she shall perform such other duties as are incident to his or her office or as may be assigned, from time to time, by the Commission or by the Chairman.

(c) The Commission's staff shall be comprised of the divisions and offices set forth below. Each division and office shall be organized into such operational units, and each unit shall have such assigned positions, as the Chairman shall direct.

1.The General Counsel's Office shall, under the direction of the General Counsel, render legal advice to the Chairman, the Commission, and the Commission's staff concerning all matters arising under the Act and the Commission's rules; represent the Commission in litigation; process contested case matters and any appeals from decisions or determinations made by the Director; oversee Commission rulemaking; exercise responsibility for the Commission's equal employment opportunity program; oversee the conduct of Commission meetings and hearings; and, if the General Counsel is serving as Executive Secretary, maintain the official records of the Commission and a record of all Commission proceedings.

2.The Division of Regulatory Affairs shall, under the supervision of the Director of Regulatory Affairs:

i.Provide expert advice and consultation to the Commissioners on all matters of a financial or economic nature; facilitate the Commission's financial reporting responsibilities; and determine and certify the amount of revenues that are payable for use of casino parking spaces;

ii.Study the operation and administration of casino control laws in other jurisdictions, related literature, and Federal laws, and public opinion as to existing and potential features of casino gaming; monitor trends and

emerging technologies in casino operation; study Internet gambling and wireless gambling; develop recommendations to modernize the Casino Control Act and gaming rules as necessary to keep pace with evolving casino gaming technology; and make recommendations for leveraging the unique geographical advantages and other attributes of the Atlantic City Tourism District; and

iii. Process and review casino key employee license applications; monitor casino key employee license and employment practices of the gaming industry; and assist the Commissioners in addressing issues of related policies.

3. The Office of the Commissioners shall consist of the following:

i. The Chairman, Vice-chair, Commissioners, and their secretarial and executive assistants;

ii. The Office of the Chief of Staff, which shall be responsible for the dissemination of information to the media and the public; act as liaison to the community, other governmental entities and departments, and the State Legislature; serve as the central filing location for petitions and submissions to the Commission, except as otherwise provided in the rules of the Commission and the Division; provide the personnel, budget, and administrative services necessary for the operation of the Commission; direct strategic planning, agency-wide policy development, and the implementation of plans and policies; administer the data processing needs of the Commission; and shall be responsible for the conduct of the operational affairs of the Commission; and

iii. The Office of the Executive Secretary and his or her support staff.

(d) The Chair, the Commissioners, the General Counsel, the Chief of Staff, the Executive Secretary, and the Director of Regulatory Affairs shall constitute the management team of the Commission, and shall execute general Commission policies as established by the Commission.

19:40A-2.2 Meetings

(a) Regular meetings of the Commission shall be held at least once per month on such dates and at such times and places as the Chairman or the Commission shall establish.

(b) Special meetings of the Commission will be held from time to time on such dates and at such times and places as the Chairman or the Commission may deem convenient. Special meetings of the Commission may be called at the discretion of the Chairman; but the Chairman shall call a special meeting at the request of a majority of the Commission.

(c) The annual reorganization meeting of the Commission shall be the first meeting of the Commission in January of each year.

(d) All meetings of the Commission shall be in compliance with the Senator Byron M. Baer Open Public Meetings Act, N.J.S.A. 10:4-6 et seq.

(e) The Commission may prepare an agenda describing the order of business for public meetings, which agenda shall include, but not be limited to:

1. Presiding officer's statement of compliance with the Senator Byron M. Baer Open Public Meetings Act, N.J.S.A. 10:4-6 et seq.;

2. Roll call;

3. Ratification of the minutes of prior meetings;
4. Consideration of applications for licenses;
5. Consideration of appeals from decisions or determinations made by the Director;
6. Consideration of petitions for Commission action or approval; and
7. Questions and comments from the public.

19:40A-2.3 Quorum; votes

- (a) A majority of the full Commission shall constitute a quorum at any meeting of the Commission.
- (b) The vote on any matter before the Commission shall be taken in a manner to be determined by the Commission. The names of the members voting for or against or abstaining shall be entered in the minutes of the meeting.

19:40A-2.4 Resolutions and minutes

- (a) The records of the Commission shall include a minute book and a resolution book. The vote on any matter before the Commission shall be set forth in the minutes in accordance with the requirements of (b) below. If the Commission determines to memorialize the vote on a particular matter by the preparation of a formal resolution, the resolution shall be prepared in accordance with the requirements of (c) below and shall be recorded in the

resolution book.

(b) Every vote of the Commission recorded in the minutes shall include the following information:

1.The substance of the matter considered;

2.The vote of the Commission, including the names of any commissioners dissenting or abstaining;

3.If appropriate, reference to the existence of a formal resolution concerning the matter; and

4.Certification by the Executive Secretary.

(c) Every formal resolution of the Commission shall include the following information:

1.A concise statement of the issues presented and the relevant procedural history;

2.The precise statutory authority for the action taken;

3.A precise statement of the action taken by the Commission, including any terms or conditions attached thereto; and

4.Certification by the Executive Secretary.

19:40A-2.5 Delegation of Commission authority

(a) The Commission may, in its discretion and where permitted by law, delegate its authority to perform any of its functions under the Act or this chapter to a member or members of its staff. Except as provided in (d) below, such action shall for all purposes be deemed the final action of the

Commission, without approval, ratification, or other further action by the Commission.

(b) Any delegation of Commission authority shall be effected through the adoption of a formal resolution at a public meeting of the Commission. Such resolution shall specify the following, without limitation:

1.The specific authority delegated;

2.The member or members of the Commission's staff to whom such authority is delegated; and

3.Any limitations or conditions imposed on the authority delegated.

(c) All delegations of authority made pursuant to this section shall remain in effect indefinitely, unless otherwise specified in the implementing resolution. Any delegation of authority previously approved by the Commission may be revoked or modified by the Commission through the adoption of a subsequent formal resolution. All previous delegations of authority shall be reviewed by the full Commission, concurrent with each readoption of this chapter, to determine whether each delegation should be retained.

(d) Any determination by the Commission staff pursuant to delegated authority shall be presented for review by the full Commission, upon timely request by the Division or any party adversely affected by such determination. Such request shall be in writing, and must be received by the Commission within three days after the date of such determination. No determination by the Commission staff pursuant to delegated authority shall be deemed final until all parties have been afforded an opportunity for review in accordance with this

subsection.

(e) Notwithstanding any other provision of this section, any matter which has otherwise been delegated to the Commission staff may alternatively be presented to and determined by the full Commission on its own motion or at the discretion of the Chairman, or upon the request of the Commission staff.

(f) The use of the term "Commission," "Chair," "Chairman," "Commissioner," or "member" in this chapter shall not be interpreted to preclude any delegation of authority to the Commission staff in accordance with this section.

(g) Whenever any provision of this chapter requires that a party provide notice to or file any application, petition, or other submission with the Commission or Chairman, the Commission shall provide written notice to such party, designating any member or members of its staff authorized to accept such notice or filings on behalf of the Commission or Chairman.

19:40A-2.6 Post-employment restrictions

(a) For purposes of this section, a "policy-making management position" for the Commission means the Executive Secretary; the Chief of Staff; a Director of any Division; the General Counsel; and any other person designated to serve on the Commission's management team.

(b) No employee of the Commission shall solicit or accept employment with, or acquire any direct or indirect interest in, any person who is an applicant, licensee, or registrant with the Commission for a period of two years from the date of termination of his or her employment with the Commission.

Notwithstanding the foregoing:

1.A secretarial or clerical employee may solicit and accept such employment at any time after termination of employment with the Commission;

2.Any employee, other than a person subject to (c) below, who is terminated as the result of a reduction in workforce at the Commission may accept employment otherwise prohibited by this subsection upon application to and the approval of the Commission pursuant to (d) and (e) below; and

3. Nothing in this section shall prohibit a former employee of the Commission from soliciting or accepting employment with, or acquiring an interest in, any person who is registered as a casino service industry enterprise pursuant to subsection 92.c of the Act.

(c) At the end of two years from termination of employment, and for a period of two years thereafter, any person who held a policy-making management position with the Commission at any time during the five years prior to termination of employment shall not:

1.Solicit employment with an applicant, licensee, or registrant unless he or she has provided prior written notice of an intent to solicit such employment to the Commission's General Counsel; or

2.Accept or commence employment with, or acquire an interest in, an applicant, licensee, or registrant except upon application to and the approval of the Commission pursuant to (d) below for that particular employment or interest.

(d) A petition for waiver pursuant to (b)2 or (c) above shall be in writing and

shall identify the following:

1.The applicant, licensee, or registrant that has made an offer of employment, or in which the petitioner will acquire an interest;

2.The position to be held and the specific nature of the duties to be performed for the applicant, licensee, or registrant, or the nature of the interest to be acquired; and

3.Any positions held and the specific nature of the duties performed while employed by the Commission.

(e) The Commission may grant a waiver upon a finding that the acceptance of the employment or the acquisition of the interest identified in the petition will not create the appearance of a conflict of interest or evidence a conflict of interest in fact.

(f) The Commission's General Counsel shall review each petition for waiver and supporting documentation and shall make a recommendation to the Commission, with copies to the Division and the petitioner, within 10 days of the receipt of a completed petition.

(g) Any waiver granted pursuant to (e) above shall apply only to the applicant, licensee, or registrant and the position or interest identified in the petition for waiver. No person subject to post-employment restriction pursuant to (b)2 or (c) above shall accept or commence employment in any other position or with any other applicant, licensee, or registrant, or acquire any other interest that is otherwise prohibited unless a waiver has been granted by the Commission for such employment or interest.

SUBCHAPTER 3. INFORMATION AND FILINGS

19:40A-3.1 Offices; hours

(a) The main offices of the Commission are located at:

Arcade Building

Tennessee Avenue and the Boardwalk

Atlantic City, NJ 08401

(b) The offices of the Commission are open for business (except for public inspection of documents) from 8:00 A.M. to 4:00 P.M., Monday through Friday, unless otherwise authorized by the Commission. The offices of the Commission are open for public inspection of documents from 10:00 A.M. to 4:00 P.M., Monday through Friday, unless otherwise authorized by the Commission. The offices of the Commission are closed on legal holidays.

19:40A-3.2 Official records; fees for copies

(a) No original official record of the Commission shall be released from the custody of the Commission, except upon the express direction of the Chairman or the Executive Secretary, or upon the order of a court of competent jurisdiction.

(b) Copies of the official records of the Commission that are required by law to be made available for public inspection will be made available during the hours provided for in N.J.A.C. 19:40A-3.1, upon the payment of appropriate fees.

(c) No person shall, directly or indirectly, procure or attempt to procure from the records of the Commission, information of any kind that is not made

available by proper authority.

(d) No request for copies of any forms, pamphlets, records, documents, or other papers will be granted by the Commission, unless such papers or requests are accompanied by the required fees, charges, or deposits or, if applicable, a copy of a receipt from the Division indicating that any required fees, charges, or deposits have been paid.

(e) A copy of the Commission's meeting notices, minutes, and notices of rulemaking may be found on the Commission's web site at www.nj.gov/casinos.

(f) Copies of official records of the Commission that are required by law to be made available for public inspection shall be made available according to the following fee schedule:

1. Letter size or smaller page: \$.05 per page;

2. Legal size or larger page: \$.07 per page;

3. Electronic records and non-printed materials: No charge, except for actual cost of supplies (for example, computer discs).

(g) All checks for payment of fees, deposits, and charges required in this section shall be made payable to the order of the "Casino Control Fund" and delivered or mailed to the main office of the Commission.

19:40A-3.3 Communications; notices

(a) Except as otherwise provided by the rules of the Commission or Division, all papers, process, or correspondence relating to the Commission should be

addressed to or served upon the New Jersey Casino Control Commission at the Commission's main office.

(b) All such papers, process, or correspondence shall be deemed to have been received or served when delivered to the main office of the Commission, but a Commissioner or such individual members of the Commission's staff as the Chairman may designate, may in his or her discretion receive papers or correspondence or accept service of process.

(c) Except as otherwise specifically provided by law or Commission rule, notices and other communications from the Commission will be sent to an applicant, licensee, or registrant by either ordinary mail or certified mail to the address shown in the most recent application or change of address notice received from such person; or, in the case of a casino licensee, by depositing such notices and other communications in the appropriate mail slot designated for each casino licensee in the Commission mailroom. Such notices and communications will be available for pickup by casino licensees from 9:00 A.M. to 5:00 P.M. in the Commission mailroom located at:

Arcade Building, 1st Floor

Tennessee Avenue and Boardwalk

Atlantic City, New Jersey 08401

(d) Notices shall be deemed to have been served upon their deposit, postage prepaid, in the United States mails, or upon their deposit in the Commission mailroom in the designated mail slot for each casino licensee, and the time specified in any such notice shall commence to run from that date.

(e) Any applicant, licensee, or registrant who desires to have notices or other communications mailed to an address other than that specified in the application shall file with the Commission a specific request for that purpose, and notices and other communications will, in such case, be sent to the applicant, licensee, or registrant at such address.

(f) An applicant, licensee, or registrant will be addressed under the name and style designated in the application, and separate notices or communications will not be sent to individuals named in such application unless a specific request for that purpose is filed with the Commission. In the absence of such a specific request, a notice addressed under the name or style designated in the application shall be deemed to be notice to all individuals named in such application.

(g) Applicants and licensees shall immediately notify the Commission of any change of name, address, or telephone number and shall specifically request that all notices or other communications be sent to the new address.

19:40A-3.4 Public information office

(a) Requests for information regarding the Casino Control Commission may be directed to:

Casino Control Commission

Public Information Office

Arcade Building

Tennessee Avenue and the Boardwalk

Atlantic City, NJ 08401

(b) Access to information and data furnished to or obtained by the Commission from any source is subject to the provisions of N.J.S.A. 5:12-74.1 and N.J.A.C. 19:40A-4.

19:40A-3.5 Filing of petitions and applications

Petitions for formal action by the Commission, applications related to the issuance of a casino license or casino key employee license shall be filed with the Division's Intake Unit at the address specified in N.J.A.C. 13:69-3.1.

19:40A-3.6 Petitions for rulemaking

(a) Any interested person may file a petition requesting that the Commission adopt, amend, or repeal any rule pursuant to section 69.c of the Act and N.J.S.A. 52:14B-4(f). Such petition shall be in writing, be signed by the petitioner, and include the following information:

- 1.The name and address of the petitioner;
- 2.The substance or nature of the requested rulemaking;
- 3.The reasons for the request;
- 4.The specific legal rights, duties, obligations, privileges, benefits, or other specific legal relations of the interested person that are affected by the requested rulemaking; and
- 5.Reference to the statutory authority under which the Commission may take the requested action.

(b) Any document submitted to the Commission, which is not in substantial compliance with this section shall not be deemed to be a petition for rulemaking requiring further action. Such document shall be returned to the petitioner with instructions as to the steps necessary to correct any defects or omissions in accordance with this section.

(c) Within 15 days of receipt of a petition in compliance with this section, the Commission shall file a notice of petition with the Office of Administrative Law for publication in the New Jersey Register in compliance with N.J.A.C. 1:30-4.1.

(d) A petition for rulemaking shall be scheduled for consideration at a regularly scheduled public meeting of the Commission. The petitioner shall be given an opportunity to make a statement in support of the requested rulemaking.

(e) Within 60 days of receipt of a petition, which is in compliance with this section, the Commission shall mail to the petitioner and file with the Office of Administrative Law a notice of action on the petition in compliance with N.J.A.C. 1:30-4.2, which shall include the nature or substance of the Commission's action upon the petition and a brief statement of reasons for the Commission's actions.

(f) In accordance with N.J.A.C. 1:30-4.2, Commission action on a petition for rulemaking may include:

1. Denial of the petition;

2. Filing a notice of proposed rulemaking or a notice of a pre-proposal for a rule with the Office of Administrative Law; or

3. Referral of the matter for further deliberations, the nature of which will be specified and which will conclude within 90 days of such referral. The results of these further deliberations shall be mailed to the petitioner and shall be submitted to the Office of Administrative Law for publication in the New Jersey Register.

19:40A-3.7 Declaratory rulings

(a) Pursuant to N.J.S.A. 52:14B-8, any interested person may request that the Commission render a declaratory ruling with respect to the applicability to any person, property, or state of facts of any provision of the Act within the Commission's jurisdiction or of any Commission rule.

(b) A request for a declaratory ruling shall be initiated by a petition. The petition shall include the following items with specificity:

1. The nature of the request and the reasons therefor;
2. The facts and circumstances underlying the request;
3. Legal authority and argument in support of the request; and
4. The remedy or result desired.

(c) If the Commission, in its discretion, decides to render a declaratory ruling, a hearing shall be afforded prior to the rendering of such a ruling.

1. Where there exists disputed issues of fact that must be resolved in order to determine the rights, duties, obligations, privileges, benefits or other legal relations of specific parties, such hearings shall be conducted in accordance with N.J.A.C. 19:42A-2.

2. Where there exists no disputed issues of fact as identified in (c)1 above, the matter shall proceed on the petition, any other papers requested of the parties, and oral argument, if permitted by the Commission.

(d) In appropriate cases, the Commission may notify persons who may be interested in or affected by the subject of the declaratory ruling. In such cases, the Commission may afford these persons an opportunity to intervene as parties or to otherwise present their views in an appropriate manner, which is consistent with the rights of the parties.

SUBCHAPTER 4. CONFIDENTIAL INFORMATION

19:40A-4.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"Authorized personnel" means any member or employee of the Commission.

"Confidential information" means any information or data, furnished to, or obtained by, the Commission from any source, which is considered confidential pursuant to the provisions of N.J.S.A. 5:12-74.1, or which is otherwise confidential pursuant to applicable statutory provision, judicial decision, or rule of court.

19:40A-4.2 Determination of confidential status

(a) Except as provided by N.J.S.A. 5:12-74.1.d, all information and data furnished to or obtained by the Commission that relates to the internal controls specified in N.J.S.A. 5:12-99.a, or to the earnings or revenue of any applicant, registrant, or licensee, or which pertains to an applicant's criminal record, family, or background, shall be presumed to be confidential and shall not be released or disclosed to any person except in accordance with the provisions of this subchapter.

(b) Any question concerning whether or not a specific item of information or data within the possession of the Commission is deemed to be confidential

information under N.J.S.A. 5:12-74.1, or any other applicable statutory provision, judicial decision, or rule of court, shall be submitted to the Commission or its designee for determination or referral to appropriate authorities.

19:40A-4.3 Access

Except as otherwise provided in N.J.A.C. 19:40A-4.4 and 4.8, access to confidential information within the possession of the Commission shall be restricted to authorized personnel who require such information in the performance of their official duties.

19:40A-4.4 State Records Storage Center: retention schedule; storage; destruction

(a) With the approval of the State Records Committee, the Commission shall establish and maintain a records retention schedule for all confidential information within its possession.

(b) Confidential information considered to be inactive by the Commission but required to be retained pursuant to the provisions of (a) above, may be transferred to the possession of the State Records Storage Center in accordance with N.J.S.A. 47:12.7, as implemented by N.J.A.C. 15:3, provided that:

1. Access to any confidential information stored with the State Records Storage Center shall be limited to employees of the Center and authorized personnel of the Commission;

2.A log is maintained of all authorized personnel who are granted access to or who remove confidential information stored with the State Records Storage Center, which log shall include the information required by N.J.A.C. 19:40A-4.6(b);

3.Any confidential information transferred to the State Records Storage Center is contained in transfer cartons, sealed and marked in such a manner, so as to preclude the undetected examination of the confidential information contained therein by any person other than authorized personnel; and

4. The Commission periodically inspects and reviews any such stored confidential information to assure that it has not been disclosed or removed in violation of N.J.S.A. 52:13D-25 or 47:3-29 and the provisions of this subchapter.

(c) Any confidential information in the possession of the Commission or State Records Storage Center shall be promptly destroyed in accordance with the provisions of the applicable records retention schedule required by (a) above.

19:40A-4.5 Retention in Commission offices; access

(a) All Commission offices in which confidential information is located shall be protected from unauthorized intrusion at all times. Proper security precautions during business hours shall include a requirement that all visitors to such offices be required to identify themselves and wear a visitor pass in a conspicuous location. Proper security precautions during non-business hours shall include the use of alarm or security guard systems.

(b) Confidential information may be stored in Commission offices on micrographics, hard copy (paper), magnetic media, or any other suitable medium, provided adequate security measures are maintained to prevent unauthorized access to or use of such information.

1.A coded filing system shall be utilized whenever practicable to prevent unauthorized access to stored confidential information.

2.Access to confidential information stored on computer or magnetic media shall be restricted to authorized personnel who have obtained the required operating key, code manual, or access code from the appropriate section or unit supervisor. Operating keys, code manuals, and access codes shall be limited in number and shall be controlled by the appropriate section or unit supervisor.

19:40A-4.6 Temporary custody by authorized personnel

(a) Authorized personnel shall not remove confidential information from Commission offices unless such removal is necessary to the fulfillment of their official Commission duties. Confidential information that is not presently being utilized by authorized personnel shall be promptly returned to Commission offices.

(b) Confidential information shall not be removed from the offices of the Commission without the prior approval of an appropriate section or unit supervisor. Such approval shall only be granted where removal of the confidential information is necessary to the performance of the official duties of

authorized personnel.

(c) The integrity of confidential information in the possession of authorized personnel shall be preserved at all times. It shall be the personal responsibility of any individual granted temporary custody of confidential information to insure that the information is not shown, released, or disclosed to any unauthorized person or to any otherwise authorized person who does not require such information in the performance of their official duties. Confidential information temporarily stored outside Commission offices shall be protected by appropriate security precautions.

19:40A-4.7 Copies

A hard copy of confidential information stored on computer or magnetic media, or any other copy of confidential information within the possession of the Commission, shall only be made where absolutely necessary to the administration of the Act, or where an authorized release of the confidential information is made pursuant to the provisions of N.J.A.C. 19:40A-4.8.

19:40A-4.8 Release; notice

(a) Confidential information within the possession of the Commission shall not be released or disclosed in whole or in part to any person, except:

1. In the course of the necessary administration of the Act;
2. Upon lawful order of a court of competent jurisdiction;
3. With the approval of the Attorney General, to a duly authorized law

enforcement agency;

4. Upon presentation of proper identification, to the applicant, registrant, or licensee who furnished the confidential information to the Commission; or

5. Upon presentation of a duly executed and notarized release authorization by the applicant, registrant, or licensee who furnished the confidential information, to any person making a written request for specifically identified confidential information.

(b) If confidential information is released or otherwise disclosed to any person, notice of such release or disclosure shall be given to any applicant, registrant, or licensee affected in accordance with the information set forth by the Division at N.J.A.C. 13:69-4.8(b).

19:40A-4.9 Penalties

(a) Any direct or indirect willful disclosure of confidential information by authorized personnel of the Commission under circumstances other than those identified in N.J.A.C. 19:40A-4.8 shall be a violation of the Commission's Code of Ethics and shall subject such person to the penalties provided by N.J.S.A. 52:13D-23(d). Such violations shall be heard by the State Ethics Commission in accordance with N.J.S.A. 52:13D-21(h).

(b) The unauthorized release or disclosure of confidential information may also be a violation of N.J.S.A. 52:13D-25 or 47:3-29.

(c) Any violation of the provisions of this subchapter by authorized personnel may result in appropriate disciplinary action by the Commission.

SUBCHAPTER 5. PROFESSIONAL PRACTICE

19:40A-5.1 General provisions

No person shall practice law, accountancy, architecture, professional engineering, land surveying, or any other profession or occupation regulated by the laws of this State before the Commission in any manner other than in accordance with law, the ethical standards applicable to the particular profession, and the rules of the Commission. "Practice" shall be deemed to comprehend any matter connected with the presentation of the interest of a client, including the making of any appearance and the preparing or filing of any necessary written document, correspondence, or other paper relative to such interests.

19:40A-5.2 The practice of law

(a) No person, other than a natural person practicing law on his or her own behalf, shall practice law or represent another person before the Commission, unless he or she is an attorney authorized to practice law in this State, or a non-attorney authorized by the Commission to appear pursuant to New Jersey Court Rule R. 1:21-1(f) and N.J.A.C. 1:1-5.

(b) Notwithstanding (a) above, an attorney admitted in this State who is in good standing but who does not maintain in this State a bona fide office for the practice of law, or an attorney of any other jurisdiction who is in good standing there, may in the discretion of the Chairman be admitted to practice in

connection with a particular matter by complying with the requirements of N.J.A.C. 1:1-5.2 and provided that an attorney authorized to practice law in this State who is in good standing shall also appear of record in and thereby be responsible for the conduct of the admitted attorney in the particular matter and that both such attorneys shall sign all papers submitted or filed in accordance with the rules of the Commission.

19:40A-5.3 Notice of appearance by attorney

Each attorney practicing before the Commission shall promptly file with the Commission a notice of appearance in each matter and on behalf of each client represented and may be required to file evidence of his or her authority to act in such capacity.

SUBCHAPTER 6. DISABILITY DISCRIMINATION GRIEVANCE PROCEDURE

19:40A-6.1 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"ADA" means the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq.

"Agency" means the New Jersey Casino Control Commission.

"Designated decision maker" means the Chairman of the Casino Control Commission or his or her designee.

19:40A-6.2 Purpose

(a) This subchapter is adopted by the agency in satisfaction of the requirements of the ADA and regulations promulgated pursuant thereto, 28 CFR 35.107.

(b) The purpose of this subchapter is to establish a designated coordinator whose duties shall include assuring that the agency complies with and carries out its responsibilities under the ADA. Those duties shall also include the investigation of any complaint filed with the agency pursuant to N.J.A.C. 19:40A-6.5 through 6.8.

19:40A-6.3 Required ADA notice

In addition to any other advice, assistance, or accommodation provided, a copy of the following notice shall be given to anyone who inquires regarding the agency's compliance with the ADA or the availability of accommodation, which would allow a qualified individual with a disability to receive services or participate in a program or activity provided by the agency:

AGENCY NOTICE OF ADA PROCEDURE

The agency has adopted an internal grievance procedure providing for prompt and equitable resolution of grievances alleging any action prohibited by the U.S. Department of Justice regulations implementing Title II of the Americans with Disabilities Act. Title II states, in part, that "no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from participation in, be denied the benefits of or be subjected to discrimination" in programs or activities sponsored by a public entity.

Rules describing and governing the internal grievance procedure can be found in the New Jersey Administrative Code, N.J.A.C. 19:40A-6. As those rules indicate, grievances should be addressed to the agency's designated ADA Coordinator, who has been designated to coordinate ADA compliance efforts, at

the following address:

ADA Coordinator

N.J. Casino Control Commission

Tennessee Avenue and Boardwalk

Atlantic City, NJ 08401

1. A grievance may be filed in writing or orally, but should contain the name and address of the person filing it, and briefly describe the alleged violation. A form for this purpose is available from the designated ADA coordinator. In cases of employment related grievances, the procedures established by the Civil Service Commission, N.J.A.C. 4A:7 will be followed where applicable.

2. A grievance should be filed promptly within 30 days after the grievant becomes aware of the alleged violation. (Processing of allegations of discrimination which occurred before this grievance procedure was in place will be considered on a case-by-case basis).

3. An investigation, as may be appropriate, will follow the filing of a grievance. The investigation will be conducted by the agency's designated ADA Coordinator. The rules contemplate informal but

thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a grievance.

4. In most cases a written determination as to the validity of the grievance and a description of the resolution, if any, will be issued by the designated decision maker and a copy forwarded to the grievant no later than 45 days after its filing.

5. The ADA coordinator will maintain the files and records of the agency relating to the grievances filed.

6. The right of a person to a prompt and equitable resolution of the grievance filed hereunder will not be impaired by the person's pursuit of other remedies such as the filing of an ADA grievance with the responsible Federal department or agency or the New Jersey Division on Civil Rights. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.

7. The rules will be construed to protect the substantive rights of interested persons, to meet appropriate due process standards and to assure that the agency complies with the ADA and implementing

Federal rules.

19:40A-6.4 Designated ADA coordinator

(a) The designated coordinator of ADA compliance and complaint investigation for the agency is:

ADA Coordinator

NJ Casino Control Commission

Tennessee Avenue and Boardwalk

Atlantic City, NJ 08401

(b) All inquiries regarding the agency's compliance with the ADA and the availability of accommodation, which would allow a qualified individual with a disability to receive services or participate in a program or activity provided by the agency should be directed to the designated coordinator identified in (a) above.

(c) All grievances alleging that the agency has failed to comply with or has acted in a way that is prohibited by the ADA should be directed to the designated ADA coordinator identified in this section, in accordance with the procedures set forth in N.J.A.C. 19:40A-6.5 through 6.8.

19:40A-6.5 Grievance procedure

A grievance alleging that the agency has failed to comply with the ADA or has acted in a way that is prohibited by the ADA shall be submitted either in writing or orally to the designated ADA coordinator identified in N.J.A.C.

19:40A-6.4 within 30 days of the grievant becoming aware of the alleged violation. A grievance alleging employment discrimination will be processed pursuant to the rules of the Civil Service Commission, N.J.A.C. 4A:7-1.1 through 3.4, if those rules are applicable.

19:40A-6.6 Grievance contents

(a) A grievance submitted pursuant to this subchapter may be submitted in or on the form set forth at N.J.A.C. 19:40A-6.7.

(b) A grievance submitted pursuant to this subchapter shall include the following information:

1. The name of the grievant, and/or any alternate contact person designated by the grievant to receive communication or provide information for the grievant;

2. The address and telephone number of the grievant or alternate contact person; and

3. A description of the manner in which the ADA has not been complied with or has been violated, including times and locations of events and names of witnesses, if appropriate.

19:40A-6.7 Investigation

(a) Upon receipt of a grievance submitted pursuant to this subchapter, the designated ADA coordinator will notify the grievant of the receipt of the grievance and the initiation of an investigation into the matter. The designated

ADA coordinator will also indicate a date by which it is expected that the investigation will be completed, which date shall not be later than 45 days from the date of receipt of the grievance if practicable or unless a later date is agreed to by the grievant.

(b) Upon completion of the investigation, the designated ADA coordinator shall prepare a report for review by the designated decision maker for the agency. The designated decision maker shall render a written decision within 45 days of receipt of the grievance, if practicable or unless a later date is agreed to by the grievant, which decision shall be transmitted to the grievant and/or the alternate contact person if so designated by the grievant.

APPENDIX

Grievance form

The following form may be utilized for the submission of a grievance pursuant to this subchapter:

Americans with Disabilities Act Grievance Form

Date: _____

Name of grievant: _____

Address of grievant: _____

Telephone number of grievant: _____

Names, address and telephone number of alternate contact person:

Agency alleged to have denied access:

Department: _____

Division: _____

Bureau or office: _____

Location: _____

Incident or barrier:

Please describe the particular way in which you believe you have been denied the benefits of any service, program or activity or have otherwise been subject to discrimination. Please specify dates, times and places of incidents, and names and/or positions of agency employees involved, if any, as well as names, addresses and telephone numbers of any witnesses to any such incident.

Attach additional pages if necessary.

Proposed access or accommodation:

If you wish, describe the way in which you feel access may be had to the benefits described above, or that accommodation could be provided to allow access.

A copy of the above form may be obtained by contacting the designated ADA coordinator identified at N.J.A.C. 19:40A-6.4.