

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

General Provisions

Applications for Key Employee License

Casino Licensees

Proposed New Rules: N.J.A.C. 19:40A, 19:41A, and 19:43A

Authorized By: Casino Control Commission, James T. Plousis, Chairman.

Authority: N.J.S.A. 5:12-50, 52, 54, 56, 60, 63, 69, 72, 73, 74, 74.1, 80, 81, 82, 83, 84, 85, 85.1, 86, 87, 89, 91.1, 94, 95, 95.12 through 95.16, 105, 106, 107, 108, and 130.1 through 130.11.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2022-124.

Submit written comments by November 18, 2022, to:

Teresa M. Pimpinelli, Senior Counsel
Casino Control Commission
Arcade Building
Tennessee Avenue and the Boardwalk
Atlantic City, NJ 08401
teresa.pimpinelli@ccc.nj.gov

The agency proposal follows:

Summary

The New Jersey Casino Control Commission (Commission) is proposing the expired rules as new rules, pursuant to the authority set forth in the Casino Control Act (the Act), N.J.S.A. 5:12-1 et seq., which establish the rules by which the Commission performs its statutory responsibilities.

The expired rules proposed herein as new rules at N.J.A.C. 19:40A-1 set forth the construction and application of the Commission's rules and are summarized as follows:

N.J.A.C. 19:40A-1, Authority, addresses the construction and application of Commission rules, including the Commission's rulemaking authority.

N.J.A.C. 19:40A-1.2, Definitions, defines certain words and terms used in the chapter.

N.J.A.C. 19:40A-1.3, Construction and amendments, establishes that the rules are intended to supplement and establish the Commission's statutory functions.

N.J.A.C. 19:40A-1.4, Severability and preemption, provides that any section that is invalid will not invalidate the remainder of the chapter.

N.J.A.C. 19:40A-1.5, Practice where regulations do not govern, provides the procedure the Commission will use when regulations do not govern the matter.

The expired rules proposed herein as new rules at N.J.A.C. 19:40A-2, establish the organization and operation of the Commission and are summarized as follows:

N.J.A.C. 19:40A-2.1, Organization, reflects the Commission's organization.

N.J.A.C. 19:40A-2.2, Meetings, provides for when and how the Commission holds its meetings, including special meetings and public meetings.

N.J.A.C. 19:40A-2.3, Quorum; votes, establishes what a quorum is and how votes are taken.

N.J.A.C. 19:40A-2.4, Resolutions and minutes, provides for the creation and retention of resolutions and minutes.

N.J.A.C. 19:40A-2.5, Delegation of Commission authority, addresses the delegation of authority to the Commission staff.

N.J.A.C. 19:40A-2.6, Post-employment restrictions, outlines the post-employment restrictions applicable to Commission staff and petitions for waiver thereof.

The expired rules proposed herein as new rules at N.J.A.C. 19:40A-3, sets forth how information and filings are handled by the Commission and are summarized as follows:

N.J.A.C. 19:40A-3.1, Offices; hours, sets forth the Commission's office location and business hours.

N.J.A.C. 19:40A-3.2, Official records; fees for copies, addresses the release of official records and copying fees are set in accordance with applicable State law.

N.J.A.C. 19:40A-3.3, Communications; notices, provides for the service for communications and notices served upon or by the Commission.

N.J.A.C. 19:40A-3.4, Public information office, directs inquiries to the Commission's public information office.

N.J.A.C. 19:40A-3.5, Filing of petitions and applications, provides certain petitions and applications be filed with the Division of Gaming Enforcement (Division).

N.J.A.C. 19:40A-3.6, Petitions for rulemaking, establishes the procedures for filing and considering a petition for rulemaking.

N.J.A.C. 19:40A-3.7, Declaratory rulings, governs declaratory ruling petitions.

The expired rules proposed herein as new rules at N.J.A.C. 19:40A-4, provide for the handling of confidential information, and are summarized as follows:

N.J.A.C. 19:40A-4.1, Definitions, defines certain words and terms used in the subchapter.

N.J.A.C. 19:40A-4.2, Determination of confidential status, provides what information is confidential.

N.J.A.C. 19:40A-4.3, Access, establishes who may access confidential information.

N.J.A.C. 19:40A-4.4, State Records Storage Center; retention schedule; storage; destruction, establishes the timelines and procedures for retaining records.

N.J.A.C. 19:40A-4.5, Retention in Commission offices; access, establishes the rules for retaining confidential information within the Commission offices.

N.J.A.C. 19:40A-4.6, Temporary custody by authorized personnel, outlines how confidential information is handled by authorized Commission personnel.

N.J.A.C. 19:40A-4.7, Copies, provides for the copying of confidential information.

N.J.A.C. 19:40A-4.8, Release; notice, provides for the release of confidential information.

N.J.A.C. 19:40A-4.9, Penalties, sets forth the sanctions for disclosure of confidential information.

The expired rules proposed herein as new rules at N.J.A.C. 19:40A-5, address the general provisions of professional practice before the Commission, and are summarized as follows:

N.J.A.C. 19:40A-5.1, General provisions, addresses the general provisions of professional practice before the Commission.

N.J.A.C. 19:40A-5.2, The practice of law, provides who may appear as an attorney before the Commission.

N.J.A.C. 19:40A-5.3, Notice of appearance by attorney, establishes when a notice of appearance is required to be filed.

The expired rules proposed herein as new rules at N.J.A.C. 19:40A-6, address internal grievance procedures pursuant to the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12101 et seq., and are summarized as follows:

N.J.A.C. 19:40A-6.1, Definitions, defines certain words and terms used in the subchapter.

N.J.A.C. 19:40A-6.2, Purpose, establishes the purpose of the subchapter.

N.J.A.C. 19:40A-6.3, Required ADA notice, sets forth the required ADA notice.

N.J.A.C. 19:40A-6.4, Designated ADA coordinator, identifies the Commission's designated ADA coordinator.

N.J.A.C. 19:40A-6.5, Grievance procedures, provide the procedures to follow when filing a grievance with the Commission.

N.J.A.C. 19:40A-6.6, Grievance contents, sets forth the contents required to be included when filing a grievance with the Commission.

N.J.A.C. 19:40A-6.7, Investigation, provides the procedures for investigating any grievance.

N.J.A.C. 19:40A-6 Appendix, establishes the form for filing a grievance.

The expired rules proposed herein as new rules at N.J.A.C. 19:41A set forth standards and procedures for casino key employee licensure, and are summarized as follows:

The expired rules at N.J.A.C. 19:41A-1 are reserved, and will continue to be reserved.

The expired rules proposed herein as new rules at N.J.A.C. 19:41A-2 sets forth the general provisions to be followed when submitting documentation, and are summarized as follows:

N.J.A.C. 19:41A-2.1, Filing of key license applications, details the criteria and papers required for applications for a key license.

N.J.A.C. 19:41A-2.2, Processing, details the Commission's procedure to process a filing.

The expired rules proposed herein as new rules at N.J.A.C. 19:41A-3 set forth the rules governing modification of a key license application and are summarized as follows:

N.J.A.C. 19:41A-3.1, Amendment, addresses how key license applications may be amended.

N.J.A.C. 19:41A-3.2, Withdrawal, addresses when key license applications may be withdrawn.

N.J.A.C. 19:41A-3.3, Mootness, addresses when a key license application is moot.

The expired rules proposed herein as new rules at N.J.A.C. 19:41A-4 set forth the rules for when key license applications and employment may be restricted and are summarized as follows:

N.J.A.C. 19:41A-4.1, Restriction on application and employment after denial or revocation, addresses restrictions on key license applicants and their employment after the denial or revocation of key licensure.

N.J.A.C. 19:41A-4.2, Petition for early reapplication, provides how a key license applicant can petition for early reapplication.

The expired rules proposed herein as new rules at N.J.A.C. 19:41A-5 set forth the requirements for casino key employee licensure and are summarized as follows:

N.J.A.C. 19:41A-5.1, Persons required to obtain a casino key employee license, addresses who is required to obtain a casino key employee license.

N.J.A.C. 19:41A-5.2, Application for the issuance of a casino key employee license, provides the application requirements for a casino key employee license.

N.J.A.C. 19:41A-5.3, Temporary casino key employee license, establishes the procedures for temporary casino key employee licensure.

N.J.A.C. 19:41A-5.4, Multi-casino endorsements, sets forth the requirements for endorsement as a multi-casino key employee as required at section 91.1 of the Act.

N.J.A.C. 19:41A-5.5, Casino key employee license requirements, sets forth the standards for key licensure.

N.J.A.C. 19:41A-5.6, Duration of casino key employee license, addresses the duration of casino key employee licenses.

N.J.A.C. 19:41A-5.7, Credentials, addresses the physical credential issued to a casino key or temporary casino key employee.

N.J.A.C. 19:41A-5.8, Obligation to report and replace lost or destroyed casino key employee license credential, establishes the obligation to report and replace lost or destroyed casino key employee license credentials.

N.J.A.C. 19:41A-5.9, Scope and applicability of casino key employee licensing requirements, addresses the scope and applicability of casino key employee licensing requirements.

The expired rules proposed as new rules at N.J.A.C. 19:41A-6 contain standards and procedures for the resubmission of a casino key employee license, consistent with N.J.S.A. 5:12-94h, and are summarized as follows:

N.J.A.C. 19:41A-6.1, Duty to file resubmissions, addresses a casino key employee licensee's duty to file resubmissions.

N.J.A.C. 19:41A-6.2, Personal History Disclosure Resubmission Form-Casino Key Employee, outlines the contents of a Personal History Disclosure Resubmission Form--Casino Key Employee.

N.J.A.C. 19:41A-6.3, Downgrade of license, addresses when a casino key employee may downgrade their license.

N.J.A.C. 19:41A-6.4, Processing of resubmission, establishes how a resubmission is processed.

The expired rules proposed as new rules at N.J.A.C. 19:41A-7 set forth the rules for casino key employee license required forms and are summarized as follows:

N.J.A.C. 19:41A-7.1, Definitions, addresses the definitions used in this subchapter.

N.J.A.C. 19:41A-7.2, Casino key employee qualifiers; Multi-Jurisdictional Personal History Disclosure Form and New Jersey Supplement, references the Multi-Jurisdictional Personal History Disclosure Form and the New Jersey Supplemental Form to be filed by persons required to obtain a casino key employee license and also to qualify pursuant to section 85.1 of the Act.

N.J.A.C. 19:41A-7.3, Personal History Disclosure Form 1B (Basic Key Form), outlines the contents of the Personal History Disclosure Form 1B (Basic Key Form).

N.J.A.C. 19:41A-7.4, Request to Determine Employment or Reapplication Eligibility form, addresses the form required for a request to determine employment or reapplication eligibility.

The expired rules proposed as new rules at N.J.A.C. 19:41A-8 set forth the fees for filings with the Commission and are summarized as follows:

N.J.A.C. 19:41A-8.1, Fees, sets forth the casino key employee license fee and resubmission fee.

The expired rules proposed herein as new rules at N.J.A.C. 19:43A set forth standards and procedures for casino licensure, and are summarized as follows:

The expired rules at N.J.A.C. 19:43A-1, 2, and 3 are reserved, and will remain so.

The expired rules proposed as new rules at N.J.A.C. 19:43A-4 address the procedures for requesting the issuance of a casino license and are summarized as follows:

N.J.A.C. 19:43A-4.1, License conditions, addresses casino license conditions.

N.J.A.C. 19:43A-4.2, Request for casino license, provides for the administrative procedures and application forms required to be filed to obtain a casino licensee.

N.J.A.C. 19:43A-4.3, Request for statement of compliance, addresses requests for a statement of compliance as set forth at N.J.S.A. 5:12-81.

N.J.A.C. 19:43A-4.5, Prehearing conference; hearing, addresses hearings and prehearing conferences regarding applications for a casino license.

The expired rules at N.J.A.C. 19:43A-5 and 6 are reserved, and will remain so.

The expired rules proposed as new rules at N.J.A.C. 19:43A-7 provide the requirements for filing applications for interim casino authorization and are summarized as follows:

N.J.A.C. 19:43A-7.1, Applications for interim casino authorization, sets forth the required filings where interim casino authorization is sought.

The expired rules proposed as new rules at N.J.A.C. 19:43A-8 address conservatorships, and are summarized as follows:

N.J.A.C. 19:43A-8.1, Definitions, defines "conservatorship action."

N.J.A.C. 19:43A-8.2, Institution of casino license conservatorship and appointment of conservators, establishes the rules for instituting a casino license conservatorship and appointing conservators.

N.J.A.C. 19:43A-8.3, Qualification of conservator, establishes the qualification requirements of a conservator.

N.J.A.C. 19:43A-8.4, Bonding of conservators, addresses the bonding of conservators.

N.J.A.C. 19:43A-8.5, Powers of multiple conservators, addresses the powers of multiple conservators.

N.J.A.C. 19:43-8.6, Powers and jurisdiction of the Commission, establishes the Commission's powers and jurisdiction during a conservatorship action.

N.J.A.C. 19:43A-8.7, effect of the conservatorship on licensed casino operation, addresses the effect of a conservatorship on a licensed casino.

N.J.A.C. 19:43A-8.8, Powers, authorities, and duties of conservators, identifies the powers, authorities, and duties of conservators.

N.J.A.C. 19:43A-8.9, Compensation of conservators and others, establishes the compensation for conservators and certain of their assistants.

N.J.A.C. 19:43A-8.10, Required reports of the conservator, lists the reports required of a conservator.

N.J.A.C. 19:43A-8.11, Review of action of conservator, provides for the review of a conservator's actions.

N.J.A.C. 19:43A-8.12, Payment of net earnings during the period of conservatorship, addresses the payment of net earnings during a period of conservatorship.

N.J.A.C. 19:43A-8.13, Payments following a bulk sale, addresses payments following a bulk sale of property subject to a conservatorship.

N.J.A.C. 19:43A-8.14, Discontinuation of conservatorship, addresses the procedures for discontinuation of a conservatorship.

This notice of proposal is not required to be referenced in a rulemaking calendar since a public comment period of 60 days is being provided. See N.J.A.C. 1:30-3.3(a)5.

Social Impact

The expired rules proposed herein as new rules at N.J.A.C. 19:40A serve an essential purpose in providing basic information as to Commission organization, operations, and procedures. The chapter also sets forth standards and definitions necessary for the construction and application of rules at Chapter 40A. Further, the chapter states the manner in which the public may obtain information and file applications, requests, and submissions, which rules are mandated at N.J.S.A. 52:14B-4(b).

The expired rules proposed herein as new rules at N.J.A.C. 19:41A serve an essential purpose in providing standards and procedures for obtaining a casino key employee licensee. As such, the expired rules proposed herein as new rules will benefit applicants and prospective applicants for casino key licenses, as well as their casino employers, by providing a clear and concise explanation of their duties and responsibilities.

The expired rules proposed herein as new rules at N.J.A.C. 19:43A implement statutory provisions that are essential to the strict regulation of gaming and to assuring the public trust and confidence in the credibility and integrity of casino operations and the regulatory process. The standards and procedures for obtaining a casino license enable the Commission and the Division to ensure an applicant's good character, honesty and integrity, financial stability, and responsibility in accordance with the Act. See N.J.S.A. 5:12-80, 82, and 84 through 87.

Economic Impact

For the most part, N.J.A.C. 19:40A serves an informational and procedural purpose and the expired rules proposed herein as new rules are not anticipated to have any significant economic impact on casino licensees, applicants, or any other person or entity. However, licensees, applicants, and other similarly situated parties incur some costs in terms of time and expense incurred in the preparation and filing of submissions and appearances before the Commission. Nonetheless, compliance with these standards and procedures is essential to the successful implementation of the Act.

For the most part, N.J.A.C. 19:41A serves an informational and procedural purpose and the expired rules proposed herein as new rules are not anticipated to have any significant economic impact on casino licensees, casino key employee license applicants, or any other person or entity. The expired rules proposed herein as new rules do set forth the fee for a casino key employee license and license resubmissions. Therefore, applicants will incur such costs, although the expired rules proposed herein as new rules reflect existing fees and do not impose any fee increase. Applicants will also incur costs in terms of time and expense in filing the requisite application form and the accompanying documents.

By introducing greater certainty to the evaluation of licensing standards, the expired rules proposed herein as new rules at N.J.A.C. 19:43A help to foster enhanced confidence in the Atlantic City casino industry by the financial community. As such, the expired rules proposed herein as new rules benefit casino licensees, their affiliates, investors, and, ultimately, the citizens of Atlantic City and the State of New Jersey.

Federal Standards Statement

A Federal standards analysis is not required because the expired rules proposed herein as new rules are mandated by the provisions of the Casino Control Act, N.J.S.A. 5:12-1 et seq., and are not subject to any Federal requirements or standards.

Jobs Impact

The expired rules proposed herein as new rules are not anticipated to create new jobs in the New Jersey casino industry nor are they expected to have any impact on employment in the casino industry or any other business.

Agriculture Industry Impact

The expired rules proposed herein as new rules are not expected to have any impact upon the New Jersey agriculture industry.

Regulatory Flexibility Analysis

N.J.A.C. 19:40A provides licensees, applicants, and other interested persons with information relating to the organization and operations of the Commission. As such, the chapter for the most part does not impose reporting, recordkeeping, or other compliance requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The chapter does include standards and procedures that would apply to any person or entity filing a petition or submission with, or seeking information from, the Commission. It is possible that a small business, would fall within this category of persons and, thus, incur some costs of compliance. However, the time and expense involved in conforming to these procedural requirements would be minimal. No professional services or initial capital costs would be involved. Moreover, the enforcement of uniform, consistently applied standards and procedures, ensures the efficient operation of the agency and procedural fairness for all applicants and licensees. It would, thus, not be feasible to exempt small businesses from the expired rules proposed herein as new rules or to adopt different procedural standards for small businesses.

The expired rules proposed herein as new rules at Chapters 41A and 43A will only affect the operations of New Jersey casino licensees and applicants, and casino key employee licensees and applicants, none of which are a "small business" as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., because they employ more than 100 persons full-time in the State of New Jersey. Accordingly, a regulatory flexibility analysis for these two chapters is not required.

Housing Affordability Impact Analysis

The expired rules proposed herein as new rules will have no impact on the affordability of housing in the State of New Jersey or evoke a change in the average costs associated with housing because they affect the regulation of the New Jersey casino industry in Atlantic City.

Smart Growth Development Impact Analysis

The expired rules proposed herein as new rules will have an insignificant impact on smart growth and there is an extreme unlikelihood that the new rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because they affect the regulation of the New Jersey casino industry in Atlantic City.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Commission has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the expired rules proposed as new rules may be found in the New Jersey Administrative Code at N.J.A.C. 19:40A, 19:41A, and 19:43A.