

(b) An order temporarily prohibiting business between a casino service industry or vendor registrant and casino licensees or applicants, or any agent or employee thereof, shall become effective 15 days from the date of Commission action unless the Commission extends the time period for good cause shown.

19:42-3.3 Emergency orders; hearings; complaint

Within five days after issuance of an emergency order pursuant to section 109 of the Act, the Commission shall cause a complaint to be filed and served upon the person involved in accordance with the provisions of the Act and the regulations of the Commission. Thereafter, the person against whom the emergency order has been issued and served shall be entitled to a hearing before the Commission.

SUBCHAPTER 4. PRELIMINARY EXCLUSION HEARINGS

19:42-4.1 Preliminary placement on the exclusion list; commencement; notice; service; postponement

(a) In accordance with the provisions of N.J.A.C. 19:48-1.5A, the Division may file a motion to place a candidate on the exclusion list pending completion of the plenary hearing on the petition for exclusion. Timely notice of a preliminary exclusion hearing shall be served upon the candidate for exclusion by regular mail at his or her last known address. The notice shall include:

1. A statement advising the candidate of his or her right to appear before the Commission at the preliminary exclusion hearing; and

2. The time, place and nature of the preliminary exclusion hearing.

(b) The preliminary exclusion hearing shall be scheduled no earlier than 15 days from the mailing of notice of the hearing.

(c) Unless otherwise approved by the Commission for good cause shown, a preliminary exclusion hearing scheduled in accordance with this subchapter shall not be postponed at the request of any party.

(d) If a candidate is placed on the exclusion list as a result of a motion for preliminary placement, unless otherwise agreed by the Commission, a plenary hearing on the petition for exclusion shall be initiated within 30 days after the receipt of a request for a plenary hearing or the date of the preliminary placement on the list, whichever is later.

Amended by R.1988 d.526, effective November 7, 1988.

See: 20 N.J.R. 2250(a), 20 N.J.R. 2801(a).

Recodified from section 4.4 and substantially amended.

Recodified from 19:42-4.6 and amended by R.1995 d.495, effective September 5, 1995.

See: 27 N.J.R. 2567(a), 27 N.J.R. 3393(a).

19:42-4.2 Preliminary exclusion hearing; nature of hearing; burden of proof; service of order

(a) A preliminary exclusion hearing shall be a limited pre-exclusion proceeding. The purpose of the preliminary exclusion hearing is to determine if there is a reasonable possibility that a candidate satisfies the criteria for exclusion established by section 71 of the Act and N.J.A.C. 19:48.

(b) A preliminary exclusion hearing shall be decided on the basis of the reliable documentary or other supporting evidence of the Division and the oral arguments of the parties.

(c) A preliminary order of the Commission designating a candidate as an excluded person shall, within five days of its entry, be served upon the candidate, the Division and all casino licensees.

(d) A Commission order denying an application for preliminary placement of a candidate on the list shall be served upon the candidate and the Division.

Amended by R.1988 d.526, effective November 7, 1988.

See: 20 N.J.R. 2250(a), 20 N.J.R. 2801(a).

Recodified from section 4.5 and substantially amended.

Recodified from 19:42-4.7 and amended by R.1995 d.495, effective September 5, 1995.

See: 27 N.J.R. 2567(a), 27 N.J.R. 3393(a).

SUBCHAPTER 5. HEARINGS ON COMPLAINTS AGAINST THE DIVISION

19:42-5.1 Hearings on complaints against the Division

(a) In its sole discretion, the Commission may conduct hearings on complaints against the Division which have been initiated pursuant to N.J.S.A. 5:12-63(g).

1. Such hearings shall be held in accordance with the provisions of the UAPR as modified and supplemented by the Casino Control Act and N.J.A.C. 19:42-2.

19:42-5.2 Presumption of need to inspect and investigate

The need of the Division to inspect and investigate, and conduct continuing reviews of casino operations through on-site observation and other reasonable means to assure compliance with the act and the regulations promulgated hereunder shall be presumed at all times.

19:42-5.3 Burden of proof

(a) The casino licensee shall have the affirmative responsibility of establishing by clear and convincing evidence that:

1. The procedures of the Division had no reasonable law enforcement purpose; and

2. The procedures of the Division were so disruptive as to inhibit reasonable casino operations; and

3. The procedures of the Division in fact disrupted the licensee's casino operations.

SUBCHAPTER 6. INVESTIGATIVE HEARINGS

19:42-6.1 Investigative hearings

Pursuant to N.J.S.A. 5:12-63, 64, 66, 72 and 133(b), the Commission may conduct investigative hearings concerning the conduct of gaming and gaming operations, the operation and administration of casino control laws in this and in other jurisdictions, and any other matters within the scope of powers, duties and responsibilities of the Commission.

Amended by R.1996 d.355, effective August 5, 1996.

See: 28 N.J.R. 2352(a), 28 N.J.R. 3818(a).

SUBCHAPTER 7. HEARINGS ON REGULATIONS

19:42-7.1 Hearings on regulations

(a) Pursuant to section 69 of the Act, the Commission shall adopt, amend and repeal regulations in accordance with the provisions of the Administrative Procedure Act (N.J.S.A. 52:14B-1 et seq.).

(b) Consistent with the requirements of the Casino Control Act and the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., the Commission may, in its discretion, conduct hearings concerning the adoption, amendment or repeal of its regulations.

(c) Any public hearing held in connection with a proposed regulation shall be conducted in accordance with N.J.S.A. 52:14B-4(g).

(d) The Commission shall provide at least 15 days notice of any public hearing conducted in connection with a proposed regulation. Such notice shall be published in the New Jersey Register or provided in a manner reasonably calculated to reach the interested public in accordance with N.J.A.C. 1:30- 3.3A(b).

(e) When a hearing is held in connection with a proposed regulation, all interested parties shall be afforded the opportunity to attend and to appear before the Commission to submit oral argument in support of or in opposition to the proposed regulation. Such participation does not include the right to present evidence or to cross-examine witnesses, which may be permitted solely in the discretion of the Commission.

1. The Commission may require notice in advance of the date of the proceedings of any individual's intent to participate.

2. This section shall not be construed to establish a right of any individual to appear before the Commission in the event that the Commission may act at a subsequent date to adopt the proposed regulation.

Amended by R.1989 d.495, effective September 18, 1989.
See: 21 N.J.R. 1975(b), 21 N.J.R. 3022(b).

Deleted reference to means by which individual may petition for rulemaking and added rules concerning conduct of public hearings regarding rulemaking.
Recodified from 19:42-8.1 and amended by R.1995 d.495, effective September 5, 1995.

See: 27 N.J.R. 2567(a), 27 N.J.R. 3393(a).

Case Notes

Hearings ordered to determine reasonable work permit fees. Atlantic City Casino Hotel Assn. v. Casino Control Commission, 203 N.J.Super. 230 (App.Div.1985), certiorari denied 102 N.J. 326 (1985).

SUBCHAPTER 8. ADMINISTRATIVE REVIEW OF UNPAID FEES AND CIVIL PENALTIES

19:42-8.1 Commencement

(a) The Commission may, on its motion, administratively review the issuance or renewal of any license, the registration of any person, the issuance of any order pursuant to N.J.A.C. 19:41-8.10 or 8.11, the acceptance of any application or the failure to pay any civil penalty where cause exists to question whether all required fees or civil penalties have been paid.

(b) The Commission shall initiate the administrative review by notifying any person who apparently has failed to pay a required fee or civil penalty that all applications submitted, all licenses or registrations held or all permissions granted pursuant to N.J.A.C. 19:41-8.10 or 8.11 will be dismissed or suspended, as applicable, unless the person attends an administrative review conference conducted by the Commission.

(c) The notice scheduling an administrative review conference shall be served either by regular or certified mail, return receipt requested, or, in the case of an individual employed at a casino hotel, by personal service through a Commission inspector. The notice shall specify a date for the conference that is not earlier than 15 days after the date the notice is served and shall schedule a date subsequent to the date of the conference on which the Commission shall consider dismissing the application or suspending the license, registration or permission unless the matter has been resolved to the satisfaction of the Commission prior thereto.

(d) The Division shall be given notice of the administrative review conference; however, the Division's attendance is not required nor necessary unless it objects to the proposed Commission action.

Amended by R.1996 d.248, effective June 3, 1996.
See: 28 N.J.R. 1497(a), 28 N.J.R. 3007(a).

19:42-8.2 Repayment plans

If, at any time after the administrative review is initiated, the person admits the debt but reasonably demonstrates that it cannot immediately pay in full, then the Commission may structure a repayment schedule consistent with the ability to pay. If the person agrees to the terms of the repayment schedule, further action in the administrative review shall be postponed in order to afford the person the opportunity to satisfy the terms of the repayment agreement. If a default occurs under a repayment agreement, the administrative review shall be reinstated; provided, however, that no further repayment plan shall be allowed unless the debtor demonstrates that extraordinary circumstances exist. The administrative review shall cease and the matter shall be closed once the Commission is satisfied that the person has fully complied with the terms of the repayment agreement.

19:42-8.3 Administrative review conference

(a) The administrative review conference is an informal proceeding designed to facilitate a fair, expeditious and orderly disposition of the Commission's administrative review of unpaid fees and civil penalties. Any person that is notified to attend such a conference is required to appear and may be represented by counsel. If the person so notified is a corporation, it may appear without counsel provided it does so through one of its principals.

(b) Attendance at a scheduled administrative review conference is mandatory. The failure to attend such a conference shall constitute cause to dismiss immediately all applications, or suspend all licenses, registrations or permissions held, submitted by or granted to the person served with notice pursuant to N.J.A.C. 19:42-8.1.

(c) During the administrative review conference, the person required to attend the conference may present any

information that would demonstrate that all required payments have been made.

Amended by R.1996 d.248, effective June 3, 1996.
See: 28 N.J.R. 1497(a), 28 N.J.R. 3007(a).

19:42-8.4 Disposition of fee matters and civil penalties

(a) If, after the administrative review is initiated, the Commission determines that no debt is owed, or the debtor pays the debt in full, the matter shall be closed.

(b) If the matter remains open after an administrative review conference, the Commission shall so advise the person attending the conference, and the matter shall proceed to a hearing before the Commission on the date specified in the notice served pursuant to N.J.A.C. 19:42-10.1(c), unless, prior to the Commission hearing the matter, the person served with such notice pays the debt in full or agrees to a repayment plan that is acceptable to the Commission.

(c) At the hearing, the Commission may dismiss all applications and may suspend all licenses or registrations held by or permissions granted to any person who has failed to pay all required fees or civil penalties owed by that person.

Administrative Correction to 10.4(c).

See: 24 N.J.R. 1516(b).

Amended by R.1996, d.248, effective June 3, 1996.

See: 28 N.J.R. 1497(a), 28 N.J.R. 3007(a).

19:42-8.5 Restoration upon payment

(a) Any license, registration or permission that has been administratively suspended for failure to pay any fee or civil

penalty pursuant to N.J.A.C. 19:41-9.3(f) shall be reinstated upon payment of all outstanding amounts. Any application that has been administratively dismissed shall be reactivated if, within 45 days of the dismissal, all outstanding amounts are paid.

(b) An administrative suspension of any license in accordance with this subchapter shall not affect the term of such license, which shall expire on its stated expiration date.

(c) The Commission shall notify each casino licensee of any action that it has taken to administratively dismiss or reactivate any application, or to administratively suspend or reinstate any permission or registration or any license other than a casino license, and each casino licensee, upon receiving such notice, shall comply with any Commission directions concerning such application, license, registration or permission.

Amended by R.1996 d.248, effective June 3, 1996.

See: 28 N.J.R. 1497(a), 28 N.J.R. 3007(a).