

1. Participated in the World Trade Center rescue, recovery, or cleanup operations;
2. Is totally and permanently disabled by a qualifying condition or impairment of health, as a direct result of participation in World Trade Center rescue, recovery, or cleanup operations;
3. Passed a physical examination for entry into public service that failed to disclose evidence of a qualifying condition or impairment of health that formed the basis for the total and permanent disability; and
4. Filed an application for such recalculation within 30 days of the date that the retiree knew, or should have known, of the existence of such disability and its relation to the World Trade Center rescue, recovery, or cleanup operations.

17:4-8.4 Filing requirements

(a) A member or retiree must file a written and sworn Eligibility Registration Form with the retirement system indicating the dates, locations of service, and number of hours of participation in World Trade Center rescue, recovery, or cleanup operations by July 8, 2021, to qualify for the presumption or recalculation pursuant to N.J.A.C. 17:4-8.3. If a retiree files an application for recalculation, pursuant to N.J.A.C. 17:4-8.3(b) before July 8, 2021, the application shall serve as the Eligibility Registration form. The filing of this form, and the information required on it, allows eligible PFRS members or retirees the right to file for an Accidental Disability Retirement should they become disabled at a later date due to participation in the rescue, recovery, or cleanup operations at the WTC site.

(b) A retiree seeking recalculation of a retirement allowance pursuant to N.J.A.C. 17:4-8.3(b) shall take the steps required under this subsection.

1. A member or retiree must file an application for recalculation, on a form prescribed by the Board, within 30 days of the date that the member knew, or should have known, of the existence of a total and permanent disability caused by a qualifying condition or impairment of health and its relation to World Trade Center rescue, recovery, or cleanup operations. Retirees who knew, or should have known, of the existence of a total and permanent disability caused by a qualifying condition or impairment of health and its relation to World Trade Center rescue, recovery, or cleanup operations before July 8, 2019, must file an application for recalculation, on a form prescribed by the Division, within 30 days from the date members and retirees are notified of the enactment of P.L. 2019, c. 157.

2. A member or retiree with an Eligibility Registration Form on file with the Division must file an application with the prospective date of retirement pursuant to N.J.A.C. 17:5-5.1.

3. A member or retiree who applies for accidental disability retirement must have a medical examination, pursuant to N.J.S.A. 43:16A-7.

4. If a member or retiree who is enrolled in the World Trade Center Health Program provides medical documentation for treatment provided, or paid, by the World Trade Center Health Program sufficient to allow the Medical Review Board to certify that the member or retiree is totally and permanently disabled by a qualifying condition or impairment of health as a direct result of participation in World Trade Center rescue, recovery, or cleanup operations, then no further evaluation is necessary. If the medical documentation is not sufficient to establish a total and permanent disability caused by a qualifying condition or impairment of health as a direct result of participation in World Trade Center rescue, recovery, or cleanup operations after review by the Medical Review Board, then an independent medical examination shall be required.

17:4-8.5 Calculation of accidental disability benefits

If a member or retiree is approved for accidental disability retirement under the provisions of P.L. 2019, c. 157 and this subchapter, the annual allowance shall be $66 \frac{2}{3}$ percent of the salary at the time of September 11, 2001, or the time of retirement, whichever provides the largest benefit to the member.

OTHER AGENCIES

(a)

CASINO CONTROL COMMISSION

Hearings and Appeals

Proposed Readoption: N.J.A.C. 19:42A

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

Authority: N.J.S.A. 5:12-63, 69, 80, 86, 89, 94, 95, 107, and 108.

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

Proposal Number: PRN 2020-040.

Submit written comments by June 19, 2020, to:

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The agency proposal follows:

Summary

N.J.S.A. 5:12-1 et seq., as amended by P.L. 2011, c. 19, effective February 1, 2011, effectuated significant changes in the structures and procedures for the regulation of casino gaming in New Jersey, including the reallocation of the duties and responsibilities between the Casino Control Commission (Commission) and the Department of Law and Public Safety, Division of Gaming Enforcement (Division). The Commission adopted new rules, which were effective on April 15, 2013, establishing hearing procedures for the conduct of contested case hearings within the Commission's revised jurisdiction and governing the adjudication of appeals from certain actions of the Division Director, a new authority granted to the Commission pursuant to P.L. 2011, c. 19. (see 44 N.J.R. 2993(b); 45 N.J.R. 946(b).) In accordance with N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 19:42A were scheduled to expire on April 15, 2020. In accordance with N.J.S.A. 52:14B-5.1c(2), the filing of this notice of proposal with the Office of Administrative Law extended the expiration date by 180 days to October 12, 2020.

The Commission is proposing to readopt the rules at N.J.A.C. 19:42A, which address standards and procedures for the conduct of hearings and appeals before the Commission. The Commission has reviewed the existing rules and has determined them to be reasonable, necessary, and proper for the purpose for which they were originally promulgated.

A summary of N.J.A.C. 19:42A follows.

Subchapter 1 sets forth the general provisions of the Commission's hearing and appeal process.

Subchapter 2 sets forth the procedure to follow for the commencement of contested case hearings.

Subchapter 3 sets forth the conduct of contested case hearings, including establishing the burden of proof for each party in a contested case hearing; how settlements reached prior to hearings are handled, and the circumstances under which a wage execution is required of an applicant, licensee, or petitioner.

Subchapter 4 sets forth the manner in which an appeal before the Commission is commenced; who may appeal a final action; the types of appeals the Commission is authorized to hear; how notice of a party's right to appeal will be provided; establishing the procedure for requesting extensions of the time to file an appeal; requiring the Division to provide a statement of the items comprising the appeal record; defining the record on appeal and the process to settle any disputes regarding its correctness; providing procedures for supplementing the appeal record; establishing procedures for supplementing the appeal record; establishing the format and requirements for filing a Case Information Statement, briefs, and motions, as well as the time for filing appellate briefs; addressing the dismissal of an appeal and the effect of a request to withdraw or entry into a subsequent stipulation of settlement on an appeal.

Subchapter 5 provides the rules that govern the conduct of an appeal hearing establishing that oral argument must be requested; addressing the ways an appeal hearing can proceed, providing for the introduction of evidence in an appeal; establishing the standard of review in an appeal; and establishing that an appeal decision is a final agency action for purposes of establishing jurisdiction on appeal.

Subchapter 6 provides the rules for hearings on complaints against the Division, including establishing the burden of proof.

Subchapter 7 sets forth the rules for hearings in connection with the adoption, amendment, or repeal of Commission rules.

As the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking requirements pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption implement the requirements of N.J.S.A 5:12-1 et seq., and establish the standards and procedures the Commission will follow when there is a contested case hearing or appeal. Applicants, licensees, and petitioners who are eligible to have their matter heard by the Commission, either through a contested case hearing or an appeal, will benefit from the establishment of these standards and procedures.

Economic Impact

The rules proposed for readoption serve an informational and procedural purpose and will not have any economic impact on casino employees, licensees, applicants, or any other person or entity in the New Jersey casino industry. The Commission does incur costs in implementing the procedures set forth at N.J.A.C. 19:42A; however, such costs are far outweighed by the State's interest in providing clear, reasonable, and efficient procedures that ensure each affected person has a reasonable opportunity to be heard and to the successful implementation of the hearing and appeal process required by the Casino Control Act.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption 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 rules proposed for readoption will not generate or cause the loss of any jobs.

Agriculture Industry Impact

The rules proposed for readoption will not have any impact on the New Jersey agriculture industry.

Regulatory Flexibility Analysis

The rules proposed for readoption apply to both individuals and entities. The contested case hearing rules apply to those applying for or looking to retain a previously granted casino key employee license, to

casino licensees, and individual qualifiers of casino licenses. The appeal and hearing rules apply to both persons and entities, including casino service industry enterprise licensees and applicants or other vendor registrants, which may qualify as a small business as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

If an entity that qualifies as a small business requests an appeal hearing before the Commission, they will have the opportunity to have their underlying matter reviewed, which will subject them to the procedural requirements set forth in the rules proposed for readoption. Some time and minimal administrative costs may be incurred in filing the requisite requests and responses. If the entity chooses to be represented by counsel, they would also incur attorney's fees. Since most of the rules proposed for readoption are procedural standards for the conduct of contested cases and appeals (for example, filing timelines and burden of proof), small businesses will not incur any costs in complying with these standards. Because an administrative agency's procedures must, as a matter of fundamental fairness, be consistently applied to all similarly situated parties without exemptions or concessions based upon size, uniformity is necessary and essential to ensure administrative efficiency. For this reason, the public interest would not be served by exempting small businesses from the standards and procedures set forth in the rules proposed for readoption or by establishing different compliance requirements for such businesses. No additional professional services are required for compliance, other than as discussed in the Summary above.

Housing Affordability Impact Analysis

The rules proposed for readoption will have no impact on the affordability of housing in this State, nor will they have any impact on the costs of housing. The rules set forth procedures for contested cases and appeals.

Smart Growth Development Impact Analysis

The rules proposed for readoption will have no effect on smart growth development in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The rules set forth procedures for contested cases and appeals.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Commission has evaluated this rulemaking and has determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:42A.