

**LAW AND PUBLIC SAFETY
NEW JERSEY RACING COMMISSION**

**Horse Racing Rules; Harness Racing Rules; Off-Track Wagering And Account
Wagering Rules**

Self-Exclusion List

**Proposed New Rules: N.J.A.C. 13:70-32.1, 13:71-30.1, 13:74-12.1 and
13:74A**

Authorized By: New Jersey Racing Commission
Frank Zanzuccki, Executive Director

Authority: N.J.S.A. 5:5-30, 5:5-65.1, and 5:5-65.2

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

Proposal Number: PRN 2004-244

Submit written comments by August 20, 2004 to:

Michael Vukceovich, Deputy Director
New Jersey Racing Commission
P.O. Box, 088, 140 E. Front Street
Trenton, New Jersey 08625

The agency proposals follow:

Summary

N.J.S.A. 5:5-65.1 and 65.2 authorize problem gamblers to voluntarily request that their names be placed on a list of self-excluded persons to be maintained by the New Jersey Racing Commission (Racing Commission). As a result of the entry of a person's name on such list, that person would be prohibited from wagering on horse race betting and appearing at premises (that is, permitted racetracks and licensed off-track wagering facilities) where horse race wagering is authorized in this state.

This law requires the Racing Commission to promulgate rules: establishing procedures for an individual's inclusion on, and removal from, the list of self-excluded persons; establishing procedures for the transmittal to the permitted racetracks, the licensed off-track wagering licensee and the account wagering licensee of identifying information concerning persons on the self-exclusion list; and requiring permitted racetracks, licensed off-track wagering facilities and the account wagering licensee to establish procedures designed to remove persons on the self-excluded list from targeted mailings or other forms of advertising or promotions and deny such persons access to credit, complimentaries, check cashing privileges, club programs, and other similar benefits.

The primary objective of proposed new rules N.J.A.C. 13:74A is to establish rules necessary for the implementation of N.J.S.A. 5:5-65.1 and 65.2. The proposal will create a new chapter, N.J.A.C. 13:74A, consisting of six subchapters as described and set forth below. Since N.J.A.C. 13:74A is proposed to be applicable to thoroughbred (horse racing) racetracks, harness racetracks, off-track wagering facilities to-be-established in this state and to the account wagering system to-be-established in this State, the Racing Commission is simultaneously proposing to amend each of its chapters governing those areas to incorporate N.J.A.C. 13:74A by reference. Accordingly, in addition to proposing new rules at N.J.A.C. Chapter 74A, the Racing Commission proposes to: amend Chapter 70, Horse Racing, with new rule N.J.A.C. 13:70-32.1; amend Chapter 71, Harness Racing, with new rule N.J.A.C. 13:71-30.1; and to amend Chapter 74, Off-Track Wagering and Account Wagering with N.J.A.C. 13:74-12.1.

The Racing Commission believes that the adoption of N.J.A.C. 13:74A, simultaneous to the adoption of these new rules within Chapters 70, 71 and 74 respectively, will best serve to notify the public of an individual's ability to place himself or herself on the self-exclusion list.

Subchapter 1, General Provisions, to N.J.A.C. 13:74A, at N.J.A.C. 13:74A-1.1, Definitions, defines the term "self-exclusion list" as a list maintained by the Racing Commission of individuals who have complied with the procedure to be included thereupon. The phrase "self-excluded person" is defined as an individual who has complied with the application procedure for placement on the "self-exclusion list" whose name appears on that list, and who is subject to the provisions of Chapter 74A. This section also defines "account wagering licensee," "off-track wagering licensee" and "permit holder." The account wagering licensee, off-track wagering licensee and permit holder are defined herein because these entities shall operate the infrastructures and premises through which a "self-excluded person," defined as a person who voluntarily caused his or her name to be placed on the "self-exclusion" list, will be prohibited from wagering on horse race betting or appearing at. N.J.A.C. 13:74-1.2, ("Applicability"), provides that the provisions of Chapter 74A are applicable to the Racing Commission's rules governing horse racing, harness racing, off-track wagering and account wagering.

Subchapter 2, Application for and Effect of Placement on Self-Exclusion List, to N.J.A.C. 13:74A describes the application process for placement on the self-exclusion list, as well the ramifications to an individual who elects to have his or her name placed on the "self-exclusion list."

Proposed N.J.A.C. 13:74A-2.1(a) requires that the Racing Commission maintain a “self-exclusion list” of individuals who request to be excluded from entry to and wagering at permitted racetracks, licensed off-track wagering facilities, and the account wagering system in the State. Proposed N.J.A.C. 13:74A-2.1(b) provides that any person may request placement on the “self-exclusion list” by completing an application devised by the Racing Commission. Proposed N.J.A.C. 13:74A-2.1(b) details the information required in the application, including pertinent identifying information and applicant acknowledgments. Proposed N.J.A.C. 13:70-2.1(c) provides that the Racing Commission may require an applicant or “self-excluded person” to submit a photograph of himself or herself, and/or to be photographed by the Racing Commission. This provision also requires that the applicant furnish the Racing Commission with any changes in identifying information as disclosed on the application, including any change in residence. Proposed N.J.A.C. 13:74A-2.1(d) provides that the Racing Commission will notify the applicant in writing as to the date upon which his or her name will be entered on the “self-exclusion list.” It also requires the Racing Commission to forward the self-excluded persons name, identifying information and the effective date of self-exclusion to the permitted racetracks, off-track wagering facilities, and account wagering licensee.

Proposed new rule N.J.A.C. 13:74A-2.2, also within Subchapter 2 to N.J.A.C. 13:74A, describes the effect of being placed on the “self-exclusion list.” This includes a prohibition from entry to permitted racetracks and off-track wagering facilities in this State, as well as a prohibition from opening or maintaining an account with the account wagering licensee. Proposed N.J.A.C. 13:74A-2.2(c) states that anyone on the “self-exclusion list” who enters a permitted racetrack or an off-track wagering facility

in this State will be subject to immediate ejection from the facility, and that any successful applicant for placement on the “self-exclusion list” will have any open wagering account with the account wagering system closed.

Proposed N.J.A.C. 13:74A-2.2(b) states that a person on the “self-exclusion list” shall not collect winnings or recover losses as a result of wagering at the prohibited sites or through the account wagering system. Proposed N.J.A.C. 13:74A-2.2(d) provides that any money or thing of value obtained by or owed to an individual on the “self-exclusion list,” by a permitted racetrack, the off-track wagering licensee or the account wagering licensee, shall be forfeited after proper notice is received and the right to be heard by the Office of Administrative Law is afforded. This proposed subsection also states that, when such funds are properly forfeited, the Racing Commission shall issue an Order causing the money and/or thing of value to be forfeited and placed in the State General Fund for subsequent appropriation to the Department of Health and Senior Services to be used for funding programs for compulsive gambling treatment and prevention.

Subchapter 3, Confidentiality; Exceptions, to N.J.A.C. 13:74A sets forth the confidentiality criteria applicable to the “self-exclusion list,” the “self-exclusion list” application process, and exceptions. Proposed new rule N.J.A.C. 13:74A-3.1 provides that the “self-exclusion list” is confidential and only accessible to certain Racing Commission employees and certain employees of permitted racetracks, off-track wagering facilities, the account wagering licensee and, in the event of a contested case, and, as necessary for the conduct of a contested case hearing, the Office of Administrative Law.

Subchapter 4, Removal of Name From Self-Exclusion List, to N.J.A.C. 13:74A sets forth a procedure by which a “self-excluded person” may make application to the Racing Commission to have his or her name removed from the “self-exclusion list.” Proposed new rules N.J.A.C. 13:74A-4.1 and 4.2, in addition to containing provisions for removing a name from the “self-exclusion list,” set forth the notification procedure and time constraints involved in the process. These proposed new rules require that the Racing Commission, within 10 days of receipt of a properly completed and filed removal application, notify the self-excluded person and each racetrack, the off-track wagering licensee and the account wagering licensee of the date that such self-excluded person’s name is to be removed from the “self-exclusion list.” The date for such removal, pursuant to N.J.A.C. 13:74A-4.1, shall be no more than 20 days from the date of receipt of such notification letter issued by the Racing Commission. A person whose name appears on the “self-exclusion list” may not file a written application for removal from the list until one year after the date that said person’s name was entered on the “self-exclusion list.”

Subchapter 5, Administrative Requirements for Permitted Racetracks, Account Wagering Licensee, Off-Track Wagering Licensee, through N.J.A.C. 13:74A-5.1(a), requires that permitted racetracks, the off-track wagering licensee and the account wagering licensee develop and implement written internal control procedures, to be approved by the Racing Commission, to facilitate N.J.A.C. 13:74A. Proposed N.J.A.C. 13:74A-5.1(a)7 specifically requires that the permitted racetracks, the off-track wagering licensee and the account wagering licensee develop internal control procedures to remove names of persons on the “self-exclusion list” from all targeted marketing mailings and promotions and to deny such persons access to credit and

other privileges. Proposed N.J.A.C. 13:74A-5.1(b) requires permit holders, the off-track wagering licensee, and the account wagering licensee to submit their respective proposed internal control procedures to the Racing Commission for approval within 20 days of the rule's effective date, and that any amendments to said approved rules must also be submitted for Racing Commission approval. N.J.A.C. 13:74A-5.2 imposes an obligation on each racetrack permit holder, the off-track wagering licensee and the account wagering licensee to promptly notify the Racing Commission in writing of any violation of Chapter 74 or the approved internal control procedures.

Subchapter 6, Penalties; Limitations on Liability, to N.J.A.C. 13:74A establishes penalties for violations of its terms, as well as limitations on liability. More particularly, proposed N.J.A.C. 13:74A-6.1(a) establishes penalties for willful violations by any racetrack permit holder, the off-track wagering licensee or the account wagering licensee, as well as any responsible employee or agent thereof, in the form of a permit or license suspension and a maximum fine of \$5,000 per wagering incident. The proposed rule also authorizes the Racing Commission to impose remedial conditions, as appropriate. Additionally, the proposed rule provides for the forfeiture of any funds or item of value obtained by a permit holder, off-track wagering licensee or account wagering licensee where such violation occurs. The rule further provides that any funds or item of value subject of a forfeiture are to be deposited in the State General Fund for appropriation to the Department of Health and Senior Services for funding programs for compulsive gambling treatment and prevention. Proposed N.J.A.C. 13:74A-6.1(b) states that no penalty shall be imposed without notice and opportunity to be heard.

Proposed new rule N.J.A.C. 13:74A-6.2 limits the liability of the State, Racing Commission, and Racing Commission permit holders/licensees.

The Racing Commission has provided a 60-day comment period on this notice of proposal. Therefore, this proposal is exempt from the rulemaking calendar requirement in accordance with N.J.A.C. 1:30-3.3(a) 5.

Social Impact

The proposed new rules (N.J.A.C. 13:70-32.1, 13:71-30.1, 13:74-12.1 and 13:74A) allow individuals who believe they are problem gamblers to place themselves on a list of persons to be excluded from entry into permitted racetracks, off-track wagering facilities and from accessing the account wagering system in New Jersey. This is a self-help program, dedicated to providing a deterrent to gambling for such individuals. These rules will help problem gamblers by denying them access to gambling, and by preventing them from profiting from receiving or retaining gambling winnings if they violate the terms of their voluntary exclusion by entering or accessing such facilities. The rules will also benefit the families and friends of such individuals, as well as the public at large, to the extent that they might be negatively impacted by the gambling activities of a person who elects to place himself or herself on the “self-exclusion list.”

Additionally, as discussed in detail below within the Economic Impact statement to this proposal, any money or thing of value forfeited pursuant to proposed N.J.A.C. 13:74A-2.2(d) is to be deposited into the State General Fund for appropriation by the Legislature to the Department of Health and Senior Services to provide funds for compulsive gambling treatment programs in the State. Any such forfeiture will result in a positive social impact, as additional funds would be made available to enhance such programs.

Economic Impact

The proposed new rules will have a positive economic impact for problem gamblers and their families. Permitting problem gamblers to be voluntarily excluded from entry to wagering facilities and systems limits access to gambling opportunities that often cause personal economic demise. The facilities from which the problem gambler is excluded might experience a slight loss in gambling revenue or profits, which would have little impact on their profitability. In addition, horse racing programs that rely on pari-mutuel wagering for revenue will not be measurably impacted. The Racing Commission believes that the benefits to the individual, and society generally, greatly exceed any such potential negative economic impact.

The proposed new rules prohibit a person who voluntarily causes his or her name to appear on the self-exclusion list from entering permitted racetracks, from entering off-track wagering facilities, and from opening or maintaining a wagering account with the account wagering system. To the extent a person violates this prohibition, and engages in horse race wagering or otherwise obtains any item of value, any winnings or thing of value obtained or due the individual is subject to forfeiture as set forth in proposed N.J.A.C. 13:74A-2.2(d).

Additionally, any losses sustained by such person as a result of horse race wagering or otherwise are not recoverable by said person. To the extent such monetary losses are not recoverable, and to the extent such profits owed or obtained by such person are subject to forfeiture, the self-excluded individual would sustain a negative economic impact.

However, in addition to being required by the law (N.J.S.A. 5:5-65.2) authorizing these proposed new rules, the Racing Commission believes that any such potential economic impact is reasonable and necessary to achieve the overriding positive social impact intended.

Additionally, as any such forfeited money or thing of value is to be deposited into the State General Fund for appropriation by the Legislature to the Department of Health and Senior Services to provide funds for compulsive gambling treatment programs in the State, a positive economic impact is achieved as additional funds may be made available to enhance such programs.

The new rules will impose certain administrative and enforcement responsibilities upon New Jersey racetrack permit holders, the off-track wagering licensee and the account wagering licensee as set forth in proposed new rule N.J.A.C. 13:74A-5.1, and as discussed in the Jobs Impact statement below. Although New Jersey racetracks may determine that their respective existing staffs can absorb these responsibilities, the management of each racetrack facility (Meadowlands Racetrack, Monmouth Park, Atlantic City Race Course, Freehold Raceway) may determine that the hiring of additional personnel is necessary. If the hiring of new personnel is determined necessary, a negative economic impact will result. Also, as of the time of this rule proposal, the Racing Commission has not received an application for, and not issued any license authorizing, the establishment of off-track wagering facilities or an account wagering system. The New Jersey Sports & Exposition Authority (NJSEA), which is authorized by law to apply for and receive such licenses, will upon the issuance of any license, and in connection with the establishment and continued operation of such new forms of horse race wagering, have to employ individuals to

comply with the responsibilities imposed upon it by these proposed new rules. To the extent that the NJSEA does so, an economic impact will result. The Racing Commission believes that the requirements of the rule are reasonable in terms of the obligations imposed upon such entities, and that any such economic impact to such entities is outweighed by the resulting positive social impact.

Federal Standards Statement

A Federal standard analysis is not required because the proposed new rules are mandated by New Jersey law, N.J.S.A. 5:5-65.1 and 65.2, and are not subject to any Federal requirements or standards.

Jobs Impact

As discussed under the Economic Impact statement above, the proposed new rules impose administrative and enforcement requirements on racetracks, the off-track wagering licensee and the account wagering licensee. These entities are required to develop and implement written internal control procedures as set forth in proposed new rule N.J.A.C. 13:70-32.5. These internal control requirements are directed toward insuring that persons whose names appear on the self-exclusion list are not knowingly permitted access to their premises, are ejected upon detection, and toward insuring that the provisions of the rules are otherwise achieved and enforced. These requirements may result in a need on the part of these entities to hire additional staff, and in the case of the account wagering licensee and off-track wagering licensee, will require the devotion of manpower in connection with the implementation and continued operation of such forms of wagering.

Accordingly, the proposed new rules will not result in any job decrease or loss to the State. Although it is possible that the new rules will result in a determination of the racetracks, off-track wagering licensee and/or account wagering licensee to hire additional staff, such a decision is dependant upon the business decision of such entities to utilize existing staff or new hires to address the regulatory obligations imposed. Accordingly, the Racing Commission cannot predict whether the proposed new rules will result in actual job generation.

Agriculture Industry Impact

The proposed new rules will have no impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the proposed new rules affect only permitted racetracks each of which has more than 100 full time employees, the off-track wagering licensee, the account wagering licensee and individuals who place themselves on the “self-exclusion list.” Permitted racetracks and individuals do not qualify as a small business under the Regulatory Flexibility Act, NJSA 52:14B-16 et seq. The NJSEA will be the account wagering licensee and the off-track wagering licensee. The NJSEA, among other things, operates two New Jersey racetracks, and does not qualify as a small business.

Smart Growth Impact

The proposed new rules will not have an impact on the achievement of smart growth and implementation of the State Development and Redevelopment plan as defined under Executive Order No. 4 (2002).

Full text of the proposed new rule follows:

SUBCHAPTER 32. “SELF-EXCLUSION LIST” RULES

13:70-32.1 “Self-exclusion list” rules incorporated herein by reference

The Racing Commission rules, at N.J.A.C. 13:74A, Self-Exclusion List, set forth rules and procedures allowing for individuals to voluntarily place themselves on a list of persons to be: excluded from thoroughbred racetracks licensed pursuant to this chapter (N.J.A.C. 13:70, Horse Racing); excluded from standardbred or harness racetracks licensed pursuant to N.J.A.C. 13:72, Harness Racing; excluded from off-track wagering facilities licensed pursuant to N.J.A.C. 13:74; and excluded from opening or maintaining a wagering account with the account wagering licensee as authorized pursuant to N.J.A.C. 13:74. All rules in N.J.A.C. 13:74A are applicable to this chapter and are incorporated herein by reference.

SUBCHAPTER 30. “SELF-EXCLUSION LIST” RULES

13:71-30.1 “Self-exclusion list” rules incorporated herein by reference

The Racing Commission rules, at N.J.A.C. 13:74A, Self-Exclusion List, set forth rules and procedures allowing for individuals to voluntarily place themselves on a list of persons to be: excluded from thoroughbred racetracks licensed pursuant to this N.J.A.C. 13:70, Horse Racing; excluded from standardbred or harness racetracks licensed pursuant to this chapter (N.J.A.C. 13:71, Harness Racing); excluded from off-track wagering facilities licensed pursuant to N.J.A.C. 13:74; and excluded from opening or maintaining a wagering account with the account wagering licensee as authorized pursuant to N.J.A.C. 13:74. All rules in N.J.A.C. 13:74A are applicable to this chapter and are incorporated herein by reference.

SUBCHAPTER 12. “SELF-EXCLUSION LIST” RULES

13:74-12.1 “Self-exclusion list” rules incorporated herein by reference

The Racing Commission rules, at N.J.A.C. 13:74A, Self-Exclusion List, set forth rules and procedures allowing for individuals to voluntarily place themselves on a list of persons to be: excluded from thoroughbred racetracks licensed pursuant to N.J.A.C. 13:70, Horse Racing; excluded from standardbred or harness racetracks licensed pursuant to N.J.A.C. 13:71 (“Harness Racing”); excluded from off-track wagering facilities licensed pursuant to this chapter (N.J.A.C. 13:74, Off-Track and Account Wagering); and excluded from opening or maintaining a wagering account with the account wagering licensee as authorized pursuant to this chapter. All rules in N.J.A.C. 13:74A are applicable to this Chapter and are incorporated herein by reference.

CHAPTER 74A

SELF-EXCLUSION LIST

SUBCHAPTER 1. GENERAL PROVISIONS

13:74A-1.1 Definitions

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

“Account wagering licensee” means the New Jersey Sports and Exposition Authority, provided that the Racing Commission has granted its approval for the Authority to establish an account wagering system consistent with N.J.A.C. 13:74.

“Off-track wagering licensee” means the New Jersey Sports and Exposition Authority, provided that the Racing Commission has granted its approval for the Authority to conduct an off-track wagering facility or facilities consistent with N.J.A.C. 13:74.

“Permit holder” means the holder of a permit issued by the Racing Commission, authorizing the holder thereof upon a racetrack premises in this State to conduct live thoroughbred or harness horse racing and to offer pari-mutuel wagering thereupon, all pursuant N.J.A.C. 13:70 or 13:71.

“Self-exclusion list” means a list maintained by the Racing Commission, consisting of individuals who have complied with the procedure set forth in this Chapter for placement thereupon.

“Self-excluded person” means an individual who has complied with the application procedure set forth in this chapter for voluntary placement upon the “self-exclusion list”, whose name appears on the “self-exclusion list” maintained by the Racing Commission in accordance with this chapter, and who is subject to the provisions of this chapter.

13:74A-1.2 Applicability

This chapter and its provisions shall be equally applicable to the Racing Commission rules appearing at N.J.A.C. 13:70, Horse Racing, and N.J.A.C. 13:71, Harness Racing, and to the Racing Commission rules appearing at N.J.A.C. 13:74, Off-Track Wagering and Account Wagering. See N.J.A.C. 13:70-32.1, 13:71-30.1 and 13:74-12.1.

SUBCHAPTER 2. APPLICATION FOR AND EFFECT OF PLACEMENT ON SELF-EXCLUSION LIST

13:74A – 2.1 Self-exclusion list; application for placement on self-exclusion list

(a) The Racing Commission shall maintain a self-exclusion list for the purpose of effectuating N.J.S.A. 5:5-65.1, and 65.2 and this chapter, subject to the restrictions set forth in N.J.A.C. 13:74A-3.1. The Racing Commission shall make

available the names and identifying information of persons who appear on the self-exclusion list to permitted racetracks in this State, to the off-track wagering licensee in this State, and to the account wagering licensee in this State.

(b) Any person may, consistent with this chapter and on a written application form provided by the Racing Commission, voluntarily request that the Racing Commission place his or her name on the self-exclusion list. The application form shall be available at the Racing Commission offices located at: 140 East Front Street (fourth floor), Trenton, New Jersey, the Meadowlands Racetrack and at the Freehold Raceway. The application shall also be available on the Racing Commission website (www.njrconline.org). The applicant shall complete, sign and date the application form authorizing placement on the self-exclusion list. The application, upon completion, shall be mailed or delivered to the New Jersey Racing Commission office address or addresses stated in the application. The application form shall include the following:

1. Identifying information consisting of: name, including any aliases or nicknames; date of birth; address of current residence; telephone number of current residence; social security number if voluntarily provided in accordance with section 7 of the Privacy Act, 5 U.S.C. § 552a; and physical description, including height, weight, gender, hair color, and any other physical characteristics that may assist in the identification of the individual;

2. An acknowledgment by the applicant that: he or she is a problem gambler; that, during the period of exclusion, he or she as a self-excluded person may not enter a permitted racetrack or off-track wagering facility for any reason and that, if he or she improperly does so, is subject to immediate ejection from and by said

facility; that, during the period of voluntary exclusion, he or she as a self-excluded person may not open or maintain a wagering account with the account wagering licensee; and that, he or she as a self-excluded person may not collect winnings, an item of value or recover losses resulting from or related to wagering at a racetrack, an off-track wagering facility, or from account wagering;

3. An acknowledgment by the applicant that he or she shall be placed on the self-exclusion list for a minimum period of one year;
4. An acknowledgment by the applicant that he or she has read and consents to this chapter; and
5. A certification by the applicant that the information provided on the application form is true and accurate.

(c) The Racing Commission may require that the applicant submit photographs of himself or herself, and appear at its office for the taking of photographs or for the purpose of providing additional information, before placing such person's name on the self-exclusion list or subsequent to such person's name being placed on the self-exclusion list. It shall be the applicant's responsibility to furnish to the Racing Commission in writing any change in information disclosed in the application, including address of current residence, should such information change after submission of the application to the Racing Commission.

(d) Following receipt of an application, and a determination that the application is complete, the Executive Director or designee shall send a letter to the applicant, at his or her address of current residence, indicating the date upon which his or her name will be entered on the self-exclusion list as a self-excluded person. The Executive Director or designee shall also forward the name of the self-excluded person,

as well as his or her identifying information, to each permitted racetrack, the off-track wagering licensee, and to the account wagering licensee, indicating the date upon which the person's name shall be added to the self-exclusion list.

13:74A-2.2 Effect of placement on self-exclusion list; entry and wagering restrictions; forfeiture of gambling or other proceeds

(a) A person whose name appears on the self-exclusion list shall be:

1. Prohibited from entry into the premises of permitted racetracks for any reason;
2. Prohibited from entry into the premises off-track wagering facilities for any reason; and
3. Prohibited from opening or maintaining a wagering account with the account wagering system.

(b) Once a person's name is entered on the self-exclusion list, that person shall not collect winnings, recover losses or any money or thing of value subsequently arising as a result of or related to wagering activity at a permitted racetrack, at an off-track wagering facility, or from account wagering. Any winnings, money or thing of value owed to or obtained by such a self-excluded person shall be subject to forfeiture consistent with the provisions of (d) below.

(c) A person whose name appears on the self-exclusion list, and who subsequently enters a permitted racetrack or off-track wagering facility, shall be subject to immediate ejection from the facility by that facility. A person, who at the time of requesting that his or her name appear on the self-exclusion list has an open wagering account with the account wagering licensee, shall have that account closed

by the account wagering licensee promptly upon the placement of said person's name on the self-exclusion list by the Racing Commission.

(d) Any money or thing of value which is obtained by, or is owed to, a person on the self-exclusion list by a permitted racetrack, licensed off-track wagering facility or by the account wagering licensee, during the time period that such person's name appears on the self-exclusion list, shall be subject to forfeiture by Order of the Racing Commission's Executive Director or designee. Any such forfeiture shall follow: notice to the self-excluded person to be sent to the residence address provided in the application for inclusion on the self-exclusion list, unless the self-excluded person has in writing advised the Racing Commission of a change of address, in which case said notice shall be sent to such current address; and the opportunity to be heard in a contested case proceeding before the Office of Administrative Law. Following the contested case proceeding before the Office Administrative Law, and where the consideration of the recommended decision of the Office of Administrative Law by the Racing Commission results in a final decision authorizing forfeiture, the Racing Commission Executive Director shall issue an Order causing the money or thing of value to be forfeited. Any such Order shall provide that such funds are to deposited into the State General Fund for appropriation by the Legislature to the Department of Health and Senior Services to provide funds for compulsive gambling treatment and prevention programs in the State.

SUBCHAPTER 3. CONFIDENTIALITY; EXCEPTIONS

13:74A-3.1 Confidentiality of “self-exclusion list” and application for placement on self-exclusion list; exceptions

The self-exclusion list shall be privileged and confidential. Access to the identity of individuals on the self-exclusion list shall be limited to the Racing Commission, the Racing Commission Executive Director or designee, Racing Commission employees and agents whose duties and functions require access to such information, the permitted racetracks, the licensed off-track wagering licensee, and the account wagering licensee for purposes consistent with N.J.S.A. 5:5-65.1, and 65.2 and this chapter. A permitted racetrack, the off-track wagering licensee, the account wagering licensee, or any employee or agent of either, shall not disclose the name of, or any information about, any person on the self-exclusion list to anyone other than employees or agents thereof whose duties and functions require access to such information, and as otherwise necessary for the conduct of a contested hearing before the Office of Administrative Law.

SUBCHAPTER 4. REMOVAL OF NAME FROM SELF-EXCLUSION LIST

13:74A-4.1 Application for removal of name from self-exclusion list

A person whose name appears on the self-exclusion list may, at any time after one year from the date of placement on the self-exclusion list, file a written removal application provided by the Racing Commission to have his or her name removed from the self-exclusion list. A written removal application shall be available at the Racing Commission offices located at 140 East Front Street (fourth floor), Trenton, New

Jersey, the Meadowlands Racetrack and at the Freehold Raceway. The removal application shall also be available on the Racing Commission website (www.njrconline.org).

13:74A-4.2 Procedure Of Racing Commission Upon Receipt of “Removal Application”

The Racing Commission Executive Director or designee, within 10 days of the receipt of a properly completed removal application filed pursuant to N.J.A.C. 13:74-4.1, shall send a letter to the applicant at his or her address of current residence as set forth in said application, advising of the date upon which his or her name will be removed from the self-exclusion list. The applicant’s name shall be removed from the self-exclusion list no more than 20 days from the date of receipt of said removal application by the Racing Commission. The Racing Commission Executive Director or designee shall contemporaneously forward the person’s name to each permitted racetrack, the off-track wagering licensee and to the account wagering licensee, indicating the date upon which the person’s name shall be removed from the self-exclusion list.

SUBCHAPTER 5. ADMINISTRATIVE REQUIREMENTS FOR PERMITTED
RACETRACKS, ACCOUNT WAGERING LICENSEE, OFF-
TRACK WAGERING LICENSEE

13:74A-5.1 Internal control procedures to be developed by permitted racetracks, licensed off-track wagering facilities and account wagering licensee

(a) The permitted racetracks, account wagering licensee and off-track wagering licensee shall each develop and implement written internal control procedures, to be approved in advance of implementation by the Racing Commission Executive Director or designee. The internal control procedures shall be designed to facilitate the purposes of this chapter, including that:

1. Persons whose names appear on the self-exclusion list are not knowingly permitted access to their respective premises;
2. Persons whose names appear on the self-exclusion list, who improperly access such premises, are ejected from such premises promptly upon the detection of their presence;
3. Persons who improperly access such premises, who are determined to have wagered prior to detection but have not yet been paid on any winning wagers, have the proceeds from wagering or any item of value associated with wagering withheld from payment or distribution to them;
4. Persons whose names appear on the self-exclusion list are precluded from opening or maintaining wagering accounts;
5. Any existing wagering account of persons whose names are entered on the self- exclusion list be closed;

6. Persons whose names appear on the self-exclusion list, and who are determined to have subsequently improperly opened a wagering account, have the proceeds from wagering or any item of value associated with wagering withheld from payment or distribution to them;
7. Persons on the self-exclusion list are removed from targeted mailings or other forms of advertising or promotions and to deny such persons access to credit, complementaries, check cashing privileges, club programs or similar benefit;
8. Persons whose names once appeared on the self-exclusion list in accordance with this subchapter, but whose names are subsequently removed from the self-exclusion list also in accordance with this chapter, are promptly made eligible to access such premises and wager on such premises; and
9. Persons whose names once appeared on the self-exclusion list in accordance with this rule, but whose names are subsequently removed from the self-exclusion list also in accordance with this rule, are made eligible to open and maintain a wagering account.

(b) Each permit holder, the account wagering licensee and the off-track wagering licensee shall submit to the Racing Commission for approval a copy of the internal control procedures required by (a) above within 20 days of the effective date of this rule. Any amendments to said procedures shall be submitted to the Executive Director or designee for approval, prior to implementation.

13:74A-5.2 Reporting Responsibilities to Racing Commission

Each permit holder, the account wagering licensee and the off-track wagering licensee shall promptly notify the Racing Commission Executive Director or designee in writing of any incident which occurs in violation of this chapter or of the internal control procedures implemented pursuant to the procedure set forth in N.J.A.C. 13:74A-5.1.

SUBCHAPTER 6. PENALTIES; LIMITATIONS ON LIABILITY

13:74A-6.1 Permitted racetracks, licensed off-track wagering facilities, account wagering licensee; responsible employees or agents; penalties for violations

(a) Any racetrack permit holder, off-track wagering licensee or account wagering licensee, and any responsible employee or agent thereof who willfully violates this chapter, shall be subject to a permit or license suspension, a fine not to exceed \$5,000 per wagering incident, the forfeiture of money or a thing of value obtained by the permit holder, off-track wagering licensee or account wagering licensee, and such other remedial conditions which the Racing Commission deems appropriate. Where the Racing Commission orders such a forfeiture, it shall cause the proceeds of the forfeiture to be deposited into the State General Fund for appropriation by the Legislature to the Department of Health and Senior Services to provide funds for compulsive gambling treatment and prevention programs in the State.

(b) No penalty shall be imposed pursuant to this subchapter unless notice of the allegations and an opportunity to be heard is first afforded in accordance with the Administrative Procedures Act, N.J.S.A. 52:14B-1.1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

13:74A-6.2 Limitation on liability of the State, Racing Commission, Racing Commission permit holders and licensees

The State of New Jersey, the Department of Law and Public Safety and its employees, the Racing Commission and its employees, permitted racetracks and their employees, the off-track wagering licensee and its employees, and the account wagering licensee and its employees, shall not be liable to any person requesting self-exclusion and his or her heirs, administrators, executors and assigns for any harm, monetary or otherwise, which may arise out of or by reason of any act or omission relating to the request for self-exclusion or request for removal from the self-exclusion list including: its processing or enforcement; the failure of a New Jersey Racing Commission licensee or permit holder to withhold wagering privileges from, or restore wagering privileges to, a self-excluded person; permitting a self-excluded person to gain entry to/and or wager at a permitted racetrack or off-track wagering facility, or wager through the account wagering system while on the self-excluded list; disclosure of the information contained in a self-exclusion application or an individual on the self-exclusion list, except for a willful unlawful disclosure of such information; and the exercise of duties pursuant to the administration or enforcement of these rules.