

(3) Detailed information on key individuals necessary to operate the proposed off-track wagering facility, which shall demonstrate that the applicant has the requisite staff to operate the facility;

2. By December 31 of the year after the application is submitted, the well-suited entity's application must be deemed complete by the Commission. Prior to the application being deemed complete, the applicant must submit all the necessary documentation set forth in (a)1 above and rectify any deficiencies in the application via delivery of supplemental documentation and information requested, and in the timeframe stated, by the Commission; and

3. By December 31 of the year following the year the application is deemed complete, the off-track wagering facility referred to in the benchmark requirements of (a)1 and 2 above shall be opened for business and begin accepting wagers.

(b) Should a well-suited entity fail to meet the benchmarks established by this section, the well-suited entity's right to open an off-track wagering facility shall be forfeited and the Commission shall begin the process of making the forfeited off-track wagering facility available to another well-suited entity pursuant to N.J.A.C. 13:74-2.2. A well-suited entity's right to open an off-track wagering facility cannot be put up for bid until that well-suited entity has exhausted its right to appeal the forfeiture.

(c) As set forth in N.J.A.C. 13:74-2.2(a)2, the successful bid of a well-suited entity shall be considered a non-refundable filing fee should the well-suited entity fail to open the off-track wagering facility for which it was approved by the deadlines set forth in (a) above.

## (a)

### **NEW JERSEY RACING COMMISSION Issuance of Sports Wagering License to Racetrack Permit Holder**

#### **Proposed Readoption of Special Adopted New Rules with Amendments: N.J.A.C. 13:74D**

#### **Proposed New Rules: N.J.A.C. 13:74D-2.2 and 2.3**

#### **Proposed Repeal: N.J.A.C. 13:74D-1.3**

Authorized By: New Jersey Racing Commission, Judith A. Nason,  
Acting Executive Director.

Authority: N.J.S.A. 5:12A-10 et seq.

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

Proposal Number: PRN 2018-099.

Submit written comments by January 4, 2019, to:

Judith A. Nason, Acting Executive Director  
Department of Law and Public Safety  
New Jersey Racing Commission  
PO Box 088  
Trenton, New Jersey 08625-0088  
or via e-mail to: [NJRCWebinfo@lps.state.nj.us](mailto:NJRCWebinfo@lps.state.nj.us).

The agency proposal follows:

#### **Summary**

N.J.A.C. 13:74D establishes the rules necessary for implementation of sports wagering at racetracks and former racetracks in New Jersey. The Sports Wagering Act (Act), P.L. 2018, c. 33 (N.J.S.A. 5:12A-10 et seq.), grants the New Jersey Racing Commission (Commission) authority to issue initial licenses to conduct sports wagering to racetracks and certain former racetracks as defined by the Act and N.J.A.C. 13:74D. The Commission's authority is limited to the initial licensure of these entities; all license renewals will be conducted by the New Jersey Division of Gaming Enforcement (Division).

Pursuant to the Act, the Commission specially adopted N.J.A.C. 13:74D on June 13, 2018. The rules promulgated by the special adoption were scheduled to expire on March 10, 2019, and must be readopted in

whole or in part to remain effective beyond that date. Further, the proposed readoption of N.J.A.C. 13:74D will afford the public an opportunity to comment on these rules. As the Department has filed this notice prior to March 10, 2019, the expiration date is extended 180 days to September 6, 2019, pursuant to N.J.S.A. 52:14B-5.1.c. A description of the specially adopted new rules proposed for readoption with amendments, new rules, and a repeal follows.

N.J.A.C. 13:74D-1 consists of definitions and general provisions. Other than legally defining pertinent terms used throughout the chapter, this subchapter states the applicability of N.J.A.C. 13:74D and incorporates the Division's rules promulgated pursuant to the Act by reference.

N.J.A.C. 13:74D-1.1 provides definitions for several terms used throughout the chapter.

N.J.A.C. 13:74D-1.2 incorporates the rules of the Division promulgated pursuant to the Act by reference. The Act grants the authority and responsibility to regulate sports wagering to the Division. N.J.A.C. 13:74D-1.2 requires compliance with the Division's rules in order for any racetrack permit holder or certain eligible former racetracks as defined by the Act and this chapter to conduct sports wagering or an online sports pool. Proposed amendments to each subsection within N.J.A.C. 13:74D-1.2 specify that the section also applies to the owner and/or lessee of certain former racetracks, as well as current racetrack permit holders.

N.J.A.C. 13:74D-1.2(a) grants a racetrack permit holder and the owner and/or lessee of certain former racetracks as defined by the Act and this chapter the ability to file an application for a license authorizing it to operate a sports pool, provided the licensee satisfies the provisions of the Act, the Commission's sports wagering rules, and the Division's rules promulgated pursuant to the Act.

N.J.A.C. 13:74D-1.2(b) grants a racetrack permit holder and the owner and/or lessee of certain former racetracks as defined by the Act and this chapter the right to enter into an operating agreement with a casino for the purpose of jointly operating a sports pool at a racetrack or former racetrack. Such an agreement is contingent upon the approval of the Commission and the Division, and joint operation of the facility must be in accordance with the provisions of the Act, the Commission's sports wagering rules, and the Division's rules promulgated pursuant to the Act.

N.J.A.C. 13:74D-1.2(c) grants a racetrack permit holder and the owner and/or lessee of certain former racetracks as defined by the Act and this chapter the right to operate an online sports pool or to contract with an internet sports pool operator licensed as a casino service industry enterprise, or an applicant for such a license, to operate an online sports pool on behalf of the racetrack permit holder or the owner and/or lessee of a former racetrack.

N.J.A.C. 13:74D-1.2(d) states that operation of a sports pool or online sports pool shall comply with the Act and the Division's rules promulgated pursuant to the Act.

N.J.A.C. 13:74D-1.3 is proposed for repeal in its entirety. The section explains the process by which a racetrack permit holder could have applied for a transactional waiver in order to immediately begin conducting sports wagering. The three entities eligible to apply for a transactional waiver have all done so. There are no other entities that qualify to receive a transactional waiver pursuant to the Act, thus this section is obsolete.

N.J.A.C. 13:74D-2 establishes the application process and requirements to which every racetrack or eligible former racetrack must adhere should they wish to open a sports wagering facility.

N.J.A.C. 13:74D-2.1 describes the requirements with which a racetrack permit holder or the owner and/or lessee of certain former racetracks must comply upon submitting an application for a sports wagering license. The section also describes the Commission's responsibilities upon receiving an application. Proposed amendments to each subsection of N.J.A.C. 13:74D-2.1 specify that the section applies to the owner and/or lessee of certain former racetracks, as well as current racetrack permit holders. Additionally, a proposed amendment to the heading of the section adds language referencing the section's applicability to the owner and/or lessee of certain former racetracks.

N.J.A.C. 13:74D-2.1(a) requires a racetrack permit holder or owner and/or lessee of certain former racetracks to submit an application for an

initial sports wagering license. The subsection also requires a \$100,000 non-refundable filing fee to accompany the application.

N.J.A.C. 13:74D-2.1(b) enumerates requirements that the application be deemed complete. The Commission will not consider an application complete unless the following are satisfied: The applicant must be in full compliance with the requirements of the Act and the Commission's rules (N.J.A.C. 13:74D-2.1(b)1); the applicant has completely answered each question in the application, has submitted the original and two copies of the application (a proposed new requirement), and has complied with any of the Executive Director's requests for additional information (N.J.A.C. 13:74D-2.1(b)2); the applicant has provided a one-time right of first refusal offer of employment at the sports pool to certain persons employed by the applicant on June 11, 2018 (N.J.A.C. 13:74D-2.1(b)3); and the application is accompanied by a certification signed by a high managerial agent attesting to the veracity of the information in the application (N.J.A.C. 13:74D-2.1(b)4).

N.J.A.C. 13:74D-2.1(c) authorizes the Commission to grant or deny an initial sports wagering license to the applicant based upon the factors enumerated in paragraphs (c)1 and 2.

The proposed amendment to existing N.J.A.C. 13:74D-2.1(c)1 and 2 will restructure them into a single paragraph because existing paragraph (c)2 merely expands upon the language of existing paragraph (c)1.

N.J.A.C. 13:74D-2.1(d) grants the Commission the right to deny a license should it find that the applicant failed to satisfy its burden to establish its suitability by clear and convincing evidence.

N.J.A.C. 13:74D-2.1(d)1 is proposed for amendment to remove the cross-reference to N.J.A.C. 13:74D-1.3, which is proposed for repeal.

N.J.A.C. 13:74D-2.1(e) directs the Commission to issue a final order and conditions granting a sports wagering license should the Commission find the applicant has met its burden.

Proposed new N.J.A.C. 13:74D-2.2 enumerates the required prerequisite conditions for an owner and/or lessee of the property upon which a former racetrack was located to qualify to file an application for an initial sports wagering license.

N.J.A.C. 13:74D-2.2(a)1 requires the owner of the former racetrack property to submit a copy of the deed and a physical description of the property to the Racing Commission's Executive Director to prove ownership prior to being qualified to make application for a sports wagering license.

N.J.A.C. 13:74D-2.2(a)2 requires the lessee of the former racetrack property to submit a copy of the lease, as well as a copy of the deed, indicating that the property is under fee simple ownership by the lessor to the Racing Commission's Executive Director prior to being qualified to make application for a sports wagering license.

Proposed new N.J.A.C. 13:74D-2.3 excludes certain licensees from sports wagering.

N.J.A.C. 13:74D-2.3(a) prohibits Commission licensees from placing a sports wager, directly or indirectly, in connection with any race where that licensee has performed any service whatsoever, or will participate in the race, where that service was performed or participation would be pursuant to the license or licenses issued to such person by the Commission. To maintain the integrity of horse and harness racing in the State of New Jersey, certain Commission licensees who may have an ability to affect the outcome of a race that is the subject of sports wagers must be prohibited from making sports wagers on such races. This prohibition is similar to the prohibition applicable to exchange wagering under current rules and extends to all potential types of sports wagers connected to that particular race, including, but not limited to, parlay bets, over/under bets, and prop bets.

N.J.A.C. 13:74D-2.3(b) incorporates the Commission's self-exclusion list as required by N.J.S.A. 5:12A-11.f(3).

N.J.A.C. 13:74D-3 establishes the rules concerning the operation of a sports pool at a racetrack and the operation of an online sports pool by a racetrack permit holder or the owner and/or lessee of certain former racetracks as defined by the Act and this chapter. This subchapter also delegates certain authority to the Racing Commission's Executive Director.

N.J.A.C. 13:74D-3.1 requires that any sports pool at a racetrack be operated in full compliance with the rules of the Act. The heading of the section is proposed for amendment to insert the phrase "or former

racetrack" after the word "racetrack." The section is also proposed for grammatical amendment to correct the improper signal "to" to the proper signal "of."

N.J.A.C. 13:74D-3.2 explains that any applications to operate an online sports pool by a racetrack permit holder or owner and/or lessee of a former racetrack must be made to the Division. Also, the operation of said online sports pool must be in full compliance with the Act and the Division's rules promulgated pursuant to the Act. The section is proposed for amendment to include language referencing the section's applicability to an owner and/or lessee of certain former racetracks. The heading of the section is proposed for amendment to include the term "or former racetrack licensee" at the end of the heading.

N.J.A.C. 13:74D-3.3 delegates authority to the Racing Commission's Executive Director, so that action can be taken in relation to sports wagering in an expeditious manner.

N.J.A.C. 13:74D-3.3(a) is proposed for deletion, as the subsection ceased being effective on September 9, 2018, and is no longer valid.

N.J.A.C. 13:74D-3.3(b) is proposed for deletion, as the ability to issue orders and conditions will return to the Commission upon the expiration of the timeframes created by the special adoption.

N.J.A.C. 13:74D-3.3(c) grants the Executive Director authority to consult with the Division in connection with sports wagering in accordance with the requirements of the Act. This subsection is proposed for amendment to remove the subsection codification and to remove the specific date on which the delegated authority shall cease.

N.J.A.C. 13:74D-3.3(d) is proposed for deletion as the ability to approve terms of agreements will return to the Commission upon the expiration of the timeframes created by the special adoption.

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

#### **Social Impact**

The rules proposed for readoption with amendments, new rules, and a repeal will have a social impact in the State of New Jersey. The proposed amendments may expand the existing authority to conduct sports wagering to two additional locations that qualify as "former racetracks" pursuant to the Act. Two additional wagering locations will serve to provide wagering patrons with more opportunities to place wagers on sporting events. Allowing patrons access to sports wagering is the purpose of the Act and this rulemaking will expand that purpose to the full extent contemplated by the Legislature.

#### **Economic Impact**

The rules proposed for readoption with amendments, new rules, and a repeal will increase the potential sports wagering handle should each qualified "former racetrack" apply for, and receive, a license to conduct sports wagering and then open such a sports book for operation.

An increase in the sports wagering handle will result in increased State revenue. The volume of that increase is speculative and cannot be reliably estimated.

#### **Federal Standards Statement**

A Federal standards analysis is not required as there are no Federal standards or requirements applicable to the rules proposed for readoption with amendments, new rules, and a repeal. The Commission proposes the readoption with amendments, new rules, and a repeal of this chapter pursuant to the rulemaking authority set forth at N.J.S.A. 5:12A-10 et seq.

#### **Jobs Impact**

The rules proposed for readoption with amendments, new rules, and a repeal may potentially add jobs in the State. Should the former racetracks operate a sports book and open concession services at the location, staff for the wagering aspects of the operation and the concession aspects of the operation will be necessary.

#### **Agriculture Industry Impact**

The Commission has evaluated the rules proposed for readoption with amendments, new rules, and a repeal and determined that they will not have an impact on the agricultural industry in the State. Accordingly, no further analysis is required.

### Regulatory Flexibility Analysis

The rules proposed for readoption with amendments, new rules, and a repeal create the opportunity for two additional entities to conduct sports wagering at the sites of two former racetracks in the State. However, those two entities are entirely unknown at this point and any specific analysis would be purely speculative in nature. Further complicating the analysis is that the Racing Commission is not the body regulating the operation of sports wagering at the former racetracks. The Racing Commission is only reviewing the application for an initial license to conduct sports wagering and granting the initial license. Once the Racing Commission grants the initial license, all regulatory oversight, including the renewal of said license, will pass to the Division of Gaming Enforcement.

Therefore, in the limited scope of the Racing Commission's oversight in this matter, the compliance requirements and costs are minimal. Any entity seeking licensure at one of the two locations described in the rules proposed for readoption with amendments, new rules, and a repeal will have to make application to the Racing Commission. The application is identical for all entities, regardless of size, and the application fee is identical for all applicants, regardless of size. Any compliance, reporting, or recordkeeping costs thereafter are the province of the Division of Gaming Enforcement and are not subject to the Racing Commission's regulatory oversight and, therefore, outside the scope of this rulemaking.

### Housing Affordability Impact Analysis

The Commission has evaluated the rules proposed for readoption with amendments, new rules, and a repeal and determined that they will not have an impact on housing affordability, or the average cost of housing, in the State. Accordingly, no further analysis is required.

### Smart Growth Development Impact Analysis

The Commission has evaluated the rules proposed for readoption with amendments, new rules, and a repeal and determined that they will not have an impact on smart growth in the State and will not evoke a change in housing production in Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules proposed for readoption with amendments, new rules, and a repeal relate to sports wagering. Accordingly, no further analysis is required.

### Racial and Ethnic Community Criminal Justice and Public Safety Impact Statement

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 rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:74D.

**Full text** of the rule proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 13:74D-1.3.

**Full text** of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

## SUBCHAPTER 1. GENERAL PROVISIONS

### 13:74D-1.1 Definitions

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

"Act" means the Sports Wagering Act, P.L. 2018, c. 33 (**N.J.S.A. 5:12A-10 et seq.**).

...

### 13:74D-1.2 Applicability; incorporation of the rules of the Division by reference

(a) A racetrack permit holder **or the owner and/or lessee of a former racetrack** may file an application for a license authorizing it to operate a sports pool in accordance with the provisions of the Act, this chapter, and the rules promulgated by the Division pursuant to the Act. The Racing Commission hereby incorporates the rules of the Division applicable to sports wagering promulgated pursuant to the Act by reference (see 50 N.J.R. 1652(a)).

(b) A racetrack permit holder **or the owner and/or lessee of a former racetrack** that holds a sports wagering license and a casino that holds a sports wagering license may enter into an agreement to jointly operate a sports pool at a racetrack, in accordance with the provisions of the Act, this chapter, and the rules promulgated by the Division pursuant to the Act, provided that the terms of the agreement are approved by the Racing Commission and the Division.

(c) A racetrack permit holder **or the owner and/or lessee of a former racetrack** that holds a sports wagering license may conduct an online sports pool or may authorize an Internet sports pool operator licensed as a casino service industry enterprise pursuant to P.L. 1977, c. 110, section 92 (N.J.S.A. 5:12-92), or an applicant for such license, to operate an online sports pool on its behalf provided the terms of the agreement are approved by the Racing Commission and the Division.

(d) (No change.)

### 13:74D-1.3 (Reserved)

## SUBCHAPTER 2. APPLICATION FOR INITIAL SPORTS WAGERING LICENSE

### 13:74D-2.1 Grant of initial sports wagering license to racetrack permit holder **or owner and/or lessee of a former racetrack**

(a) The racetrack permit holder **or the owner and/or lessee of a former racetrack** shall make an application for an initial sports wagering license on a form prescribed by the Racing Commission. The application shall be accompanied by a non-refundable filing fee of \$100,000.

(b) An application for an initial sports wagering license shall not be considered complete unless:

1. The permit holder **or the owner and/or lessee of a former racetrack** demonstrates, and the Racing Commission's investigation into the application confirms, that the requirements of the Act and this chapter have been satisfied;

2. The permit holder **or the owner and/or lessee of a former racetrack** has completely answered each question within the application, **submitted the original and two copies of the application**, and has fully complied with all of the Executive Director's requests for additional information;

3.-4. (No change.)

(c) Following the Executive Director's determination that the application for an initial sports wagering license is complete, the Racing Commission shall consider the application at a public meeting to make a final determination on the application.

1. The Racing Commission shall not grant an initial sports wagering license, unless the permit holder **or the owner and/or lessee of a former racetrack** shall have demonstrated its financial stability, integrity, and responsibility and its good character, honesty, and integrity by clear and convincing evidence. [2.] In demonstrating its financial stability, integrity, and responsibility, the permit holder **or the owner and/or lessee of a former racetrack** shall submit to the Racing Commission information, documentation, and assurances concerning its financial background and resources. The permit holder **or the owner and/or lessee of a former racetrack** shall document to the Racing Commission, by clear and convincing evidence, that it is in compliance with the Division's rules promulgated pursuant to the Act including, but not limited to, the rules applicable to the amount of cash reserves that must be maintained by operators of sports pools.

[3.] 2. The permit holder **or the owner and/or lessee of a former racetrack** shall demonstrate that it is in good standing with the Racing Commission and has complied with all statutes, rules, and orders of the Racing Commission.

(d) The Racing Commission may refuse to issue a license if it shall find that the permit holder **or the owner and/or lessee of a former racetrack** has failed to demonstrate its suitability for an initial sports wagering license by clear and convincing evidence.

1. If the permit holder obtained a sports wagering license pursuant to a transactional waiver [in accordance with N.J.A.C. 13:74D-1.3], the permit holder shall be granted up to 365 days from the date the sports wagering license was issued to amend its application, correct any deficiencies, and demonstrate its suitability for licensure. If the permit holder fails to

demonstrate its suitability for licensure, the sports wagering license shall expire.

(e) If the Racing Commission approves the application for the grant of an initial sports wagering license, the Racing Commission shall issue a final determination and order granting the license with such conditions or terms the Racing Commission deems appropriate. In imposing such conditions or terms, the Racing Commission shall order that the permit holder or the owner and/or lessee of a former racetrack comply with the Division’s rules promulgated pursuant to the Act applicable to sports pools and online sports pools including, but not limited to, those rules applicable to persons or entities that must be licensed or registered with the Casino Control Commission or the Division.

**13:74D-2.2 Grant of initial sports wagering license to a former racetrack**

(a) The owner and/or lessee of the property upon which existed a former racetrack may make application for an initial sports wagering license, pursuant to the requirements of N.J.A.C. 13:74D-2.1, to conduct sports wagering on that property, upon satisfying the following prerequisites:

1. The property owner shall provide a copy of the deed to the land and a physical description of same to the Racing Commission’s Executive Director to prove ownership.

2. The property lessee shall provide a copy of the lease, which shall run for a period not less than five years from the date of the application, and a copy of the deed, which shall indicate that the land is under fee ownership of the lessor, to the Racing Commission’s Executive Director.

**13:74D-2.3 Sports wagering by certain persons excluded**

(a) No Commission licensee may, at any time, directly or indirectly, place a sports wager in connection with any race where that licensee has performed any service whatsoever, or will participate in the race, where that service performed or participation would be pursuant to the license or licenses issued to such person by the Commission.

(b) All persons appearing on the Racing Commission’s self-exclusion list, maintained pursuant to N.J.S.A. 5:5-65.1 and 65.2, shall be excluded from sports wagering as required by the Act.

**SUBCHAPTER 3. OPERATION OF SPORTS POOL AT A RACETRACK OR ONLINE SPORTS POOL BY RACETRACK**

**13:74D-3.1 Operation of sports pool at a racetrack or former racetrack**

A sports pool at a racetrack or former racetrack shall be operated in full compliance with the rules [to] of the Division promulgated pursuant to the Act.

**13:74D-3.2 Operation of online sports pool by racetrack permit holder or former racetrack licensee**

All applications to operate an online sports pool by a racetrack permit holder or the owner and/or lessee of a former racetrack that has been granted a sports wagering license shall be filed with the Division in accordance with the requirements of its rules promulgated pursuant to the Act. Any online sports pool shall be operated in full compliance with the rules of the Division promulgated pursuant to the Act.

**13:74D-3.3 Delegation of Authority to Executive Director**

[(a) For the purpose of ensuring the expeditious and effective implementation of sports wagering at racetracks, the Racing Commission hereby delegates to the Executive Director, the authority to adopt new rules and/or amend and/or repeal existing rules in accordance with the requirements of section 4.b of the Act through September 9, 2018 (the 90-day period following the effective date of the Act).

(b) The Racing Commission delegates to the Executive Director, the authority to issue orders and conditions applicable to sports wagering at racetracks through March 8, 2019 (270 days following the effective date of the Act).]

[(c)] The Racing Commission delegates to the Executive Director, the authority to consult with the Division in accordance with the requirements of the Act or the Division’s rules promulgated pursuant to the Act

[through March 8, 2019 (270 days following the effective date of the Act)].

[(d) The Racing Commission delegates to the Executive Director, the authority to approve the terms of agreements in accordance with the requirements of the Act or the Division’s rules promulgated pursuant to the Act through March 8, 2019 (270 days following the effective date of the Act).]

**(a)**

**JUVENILE JUSTICE COMMISSION**

**Written Reports Regarding Release of a Juvenile from Custody; Definitions; Juveniles Ineligible for Assignment to Non-Secure Facilities**

**Proposed Amendments: N.J.A.C. 13:95-21.3 and 13:100-1.3 and 2.4**

Authorized By: The Executive Board of the Juvenile Justice Commission, by the Honorable Gurbir S. Grewal, Attorney General and Chair, Rahat Babar, Attorney General’s Designee.

Authority: P.L. 2015, c. 89; N.J.S.A. 2A:4A-26, 43, and 60; 2C:39-6a(9); 9:17A-1 and 4; 30:4-27.2; 30:4-27.24; 30:4-82.4; 30:4-123.53a; 52:17B-170; 52:17B-171; 52:17B-174; 52:17B-175; 52:17B-176; 52:17B-178; and 52:17B-182 through 186.

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

Proposal Number: PRN 2018-100.

Submit written comments by January 4, 2019, to:

John Wolff, Administrative Practice Officer  
New Jersey Juvenile Justice Commission  
1001 Spruce Street—Suite 202  
Trenton, New Jersey 08638  
or by e-mail to: [Regulatory.Affairs@jjc.nj.gov](mailto:Regulatory.Affairs@jjc.nj.gov)

The agency proposal follows:

**Summary**

The New Jersey Juvenile Justice Commission (Commission) is proposing to make amendments to N.J.A.C. 13:95, Secure Facilities, and 13:100, Classification Assignment Process for Juveniles.

**N.J.A.C. 13:95, Secure Facilities**

N.J.A.C. 13:95, Secure Facilities, contains rules governing the operations of Commission Secure Facilities. Subchapter 21, Reports, among other things, provides guidelines for providing reports to outside law enforcement agencies. N.J.A.C. 13:95-21.3, Written reports regarding release of a juvenile from custody, requires that the Superintendent or designee of a secure facility from which a juvenile is to be released, provide written notification to the prosecutor of the county from which the juvenile was committed 90 days before a juvenile’s anticipated release, whenever possible, but in no event fewer than 30 days before release if such release is due to the expiration of the juvenile’s maximum term. The Commission proposes to amend subsection (c) to reflect that, under the provisions of N.J.A.C. 10A:71-3, prosecutor notification for juveniles to be released on parole is made by the New Jersey State Parole Board.

**N.J.A.C. 13:100, Classification Assignment Process for Juveniles**

The rules at N.J.A.C. 13:100, Classification Assignment Process for Juveniles, govern the procedures through which juveniles are evaluated and assigned to specific Commission facilities and programs. N.J.A.C. 13:100-2.4 provides limitations on the assignment of juveniles to non-secure facilities (residential community homes).

Such an assignment is prohibited for a juvenile committed for a homicide, fire-setting behavior, or having an outstanding charge in any jurisdiction that, in New Jersey, would be classified as a first- or second-degree offense, or any non-municipal adult charge. Such an assignment is also prohibited if the juvenile has a current sentence involving a term of incarceration to an adult State or county facility.