

8. Reading articles for which the American Speech-Language-Hearing Association or the American Academy of Audiology issues verification of completion: one credit hour per article, up to a maximum of six credit hours; and

9. Successful completion of continuing education courses approved by the American Speech-Language-Hearing Association, the American Academy of Audiology; one credit hour for each course hour.

13:44C-6.3 Documentation of continuing education credits

(a) Except as set forth in (b) below, a licensee shall maintain the following documentation for a period of five years after completion of credit hours:

1. For attendance at programs, courses, seminars, webinars, teleconference, lectures, or in-services workshops, a certificate of completion from the sponsor, which includes:

- i. The name of the licensee;
- ii. The name of the sponsor;
- iii. The title, location, and date of the program, course, seminar, lecture, or in-service workshop; and
- iv. The number of continuing education credit hours;

2. For publication of a refereed article, a copy of the article;

3. For presentation of a new seminar, webinar, teleconference, or lecture, copies of the program, syllabus, course outlines, course objectives, and bibliographies;

4. For teaching a new undergraduate or graduate course, copies of the syllabus, bibliography, course outline, and verification from the academic institution that the course was not previously taught by the licensee;

5. For reading articles, certificates of completion from the American Speech-Language-Hearing Association or the American Academy of Audiology;

6. For completion of undergraduate or graduate course work, an official transcript from the education institution; and

7. For completion of a self-assessment home study course, verification of completion from the audiology or speech-language pathology professional organization that sponsored the course.

(b) A licensee who is a member of the American Speech-Language-Hearing Association continuing education registry or the American Academy of Audiology continuing education registry shall not be required to maintain the documentation required by (a) above.

(c) A licensee shall submit the documentation required by (a) above or a transcript from the American Speech-Language-Hearing Association continuing education registry or the American Academy of Audiology continuing education registry to the Committee upon request.

13:44C-6.4 Excess hours credited to subsequent renewal period

(a) In the event that a candidate for license renewal [shall] completes [in two years] a number of **credit** hours in excess of the number required in N.J.A.C. 13:44C-[6.1]6.2, [a maximum of] **up to five of those excess credit** hours [in excess of those required] shall be credited toward license renewal requirements for [subsequent years] **the succeeding biennial renewal period**; provided, however, that the [five] **excess credit** hours were [earned] **completed** within the six months immediately prior to license renewal.

(b) A licensee who wishes to apply excess credit hours to a succeeding biennial renewal period must maintain records indicating that he or she completed more than the required 20 credit hours for the current biennial renewal period.

13:44C-6.5 Waiver of requirements; additional continuing education requirements

(a) The Committee may waive the continuing education requirements of N.J.A.C. 13:44C-6.1 on an individual basis for reasons of hardship, such as, but not limited to, severe illness, disability, or military service.

1. A licensee seeking a waiver of the continuing education requirements shall apply to the Committee in writing at least 90 days prior to license renewal and set forth in specific detail the reasons for

requesting the waiver. The licensee shall provide the Committee with such supplemental materials as will support the request for waiver and the licensee may be requested to appear before the Committee; and

2. A waiver of continuing education requirements granted pursuant to this section shall be effective only for the biennial period in which such waiver is granted. If the condition(s) which necessitated the waiver persist(s) into the next biennial period, a licensee shall apply to the Committee for approval of such waiver for the new biennial period.

(b) The Committee may direct or order a licensee to complete continuing education credit hours:

1. As part of a disciplinary or remedial measure in addition to the required 20 credit hours of continuing education; or

2. To correct a deficiency in the licensee's continuing education requirements.

(c) Any continuing education credit hours completed by the licensee in compliance with an order or directive from the Committee as set forth in (b)1 above shall not be used to satisfy the minimum continuing education requirements.

13:44C-6.6 (Reserved)

TRANSPORTATION

(a)

MOTOR VEHICLE COMMISSION

Motorcycle Safety Education Program

Proposed Readoption with Amendments: N.J.A.C.

13:85

Authorized By: Motor Vehicle Commission, Raymond P. Martinez, Chair.

Authority: N.J.S.A. 27:5F-36 et seq. and 39:3-10.31; and Reorganization Plan No. 001-2005.

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

Proposal Number: PRN 2013-027.

Submit comments by April 20, 2013 to:

Kate Tasch
Regulatory and Legislative Affairs
Motor Vehicle Commission
225 East State Street
PO Box 162
Trenton, NJ 08666-0162

The agency proposal follows:

Summary

This notice of proposal is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5. Since this notice is not listed in the agency rulemaking calendar, the public comment period for this notice will be 60 days.

The Motorcycle Safety Education Program, N.J.A.C. 13:85, is proposed for readoption with amendments. Reorganization Plan No. 001-2005 transferred responsibility for the State's motorcycle safety education program established pursuant to P.L. 1991, c. 452 and all related duties including rulemaking authority relating thereto from the Office of Highway Traffic Safety in the Department of Law and Public Safety to the New Jersey Motor Vehicle Commission (hereinafter "the Commission") allocated in, but not of, the Department of Transportation.

The Commission now proposes to readopt with amendments the provisions of N.J.A.C. 13:85, Motorcycle Safety Education Program, in accordance with the "sunset" and other provisions of Executive Order No. 66 (1978) and the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. These rules are scheduled to expire on October 31, 2013, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Commission has reviewed these rules

and has found them to be necessary and required for the purpose for which they were promulgated, with the proposed amendments.

The rules that are the subject of this proposed re-adoption govern the offering of motorcycle safety education courses by the Commission and by other entities approved by the Commission to offer such courses. Many of the proposed amendments concern updating the terminology used in the program to reflect changes made by the Motorcycle Safety Foundation (MSF) and enhancing the efficiency of both the administration and presentation of Motorcycle Safety Education (MSE) classes.

The chapter was originally adopted pursuant to N.J.S.A. 27:5F-40 to establish a voluntary State motorcycle safety education course for New Jersey motorcyclists. The course meets or exceeds the standards and requirements developed by the MSF for its motorcycle rider education courses. The courses that the proposed amendments in this rulemaking are concerned with are the Additional Practice Riding Course (APRC), the Basic Riders Course (BRC), Experienced Riding Course Suite (ERC Suite) and the Basic Riding Course 2 Suite (BRC 2 Suite).

N.J.A.C. 13:85 has six subchapters that are briefly summarized below, that are proposed for re-adoption with amendments.

Subchapter 1, Purpose, Scope, and Definitions, sets forth the course curriculum and the fundamental structure of the MSE Program.

N.J.A.C. 13:85-1.2, Definitions, sets forth definitions of words and terms used in N.J.A.C. 13:85. The proposed amendments include the updating of terminology in that "BRC 2 suite" has been added to replace the deletion of the "ERC suite." This amendment not only updates the title of the course but also eliminates the "ERC skills plus course" due to redundancy with other courses. The definition of "scooter BRC" has been added as a new course offering, as well as the "three-wheel BRC." "Provider" has been amended to include those located on any United States military installation to allow those serving in the military to take advantage of the skills waiver provided for in N.J.S.A. 39:3-10.31 and to include private entities as N.J.S.A. 27:5F-36(c)4 requires (these changes are also made to similar references to "military installations" and "private entities" throughout the chapter).

N.J.A.C. 13:85-1.3, Establishment of MSE course/levels of instruction, is proposed for amendment. N.J.A.C. 13:85-1.3(a)1 has been amended to permit the addition of waiver of the written knowledge test in addition to the road test as provided for in N.J.S.A. 39:3-10.31. In order to update the terminology to be consistent with that used by the MSF, N.J.A.C. 13:85-1.3(a)2, (b)2 and (d) have been proposed for amendment to update "ERC Suite" to "BRC 2 Suite." N.J.A.C. 13:85-1.3(a)3 has been amended to limit the availability of the Additional Practice Riding Course skills waiver to one opportunity for each participant subsequent to successful completion of the BRC. This is to insure that those obtaining the skills waiver are properly instructed. N.J.A.C. 13:85-1.3(b)2 has been amended to include reference to the April 2005 MSF BRC Rider Coach Guide, as amended and supplemented. N.J.A.C. 13:85-1.3(f) has been amended to clarify that the Motorcycle Safety Education may be provided only by entities approved by the Chief Administrator of the Motor Vehicle Commission pursuant to N.J.A.C. 13:85-6.

Subchapter 2, Qualifications to Participate in MSE Courses, contains rules governing participants in the MSE course.

N.J.A.C. 13:85-2.3, Basic Skills Level course, has been proposed to be amended to broaden the credentials required in order to participate in a Basic Skills Level Course, as well as add the Scooter BRC and Three-Wheel BRC. This will allow more participants to participate, as well focus on those in most need of instruction.

N.J.A.C. 13:85-2.4, Experienced Level course, is proposed for amendment. This section has been amended to broaden the credentials required in order to participate in the course, as well as change the title of the course from Experienced Level to BRC 2 Level. The requirement that an inspection certificate of approval be displayed has been removed as unnecessary due to the requirements of N.J.A.C. 13:85-2.4(a)4. The proposed amendments will allow more potential participants to participate in the course.

Subchapter 3, Successful Completion of Course, contains two rules that address the standards for successful completion of the MSE course at the Basic Skills and BRC 2 Levels.

N.J.A.C. 13:85-3.2, Successful completion of the MSE Experienced Level Course, is proposed for amendment. This section has been amended to change the title of the Experienced Level Course to BRC 2 and to change ERC to BRC 2.

N.J.A.C. 13:85-3.3, Successful completion of the MSE Additional Practice Riding Course, is proposed for amendment. N.J.A.C. 13:85-3.3 has been amended to limit the skills waiver to those participants who successfully obtain a waiver on the initial taking of the Additional Practice Riding Course within 180 days of successful completion of the BRC.

Subchapter 4, Motor Vehicle Commission Course, contains rules pertaining to the MSE course conducted by the Motor Vehicle Commission.

N.J.A.C. 13:85-4.1, Course registration fee is proposed for amendment to change the title of the course from ERC to BRC 2.

N.J.A.C. 13:85-4.2, Schedule and registration, is proposed for amendment. Subsection (a) has been modified to allow for more fluid updating of course schedules by providers and to enhance the efficiency of scheduling. This is accomplished by utilizing online posting of scheduling information and links to providers' websites. The restriction on scheduling classes between December 31 and March 1 has been removed to allow for scheduling during that time period.

Subchapter 5, MSE Course Offered by Providers, contains rules pertaining to public or private institutions that seek to be or have been approved by the Chief Administrator to provide the MSE course.

N.J.A.C. 13:85-5.1, MSE course providers, is proposed for amendment. Paragraph (c)6 has been added to reaffirm the Chief Administrator's discretion to determine the validity of the credentials of providers, pursuant to N.J.A.C. 13:85-5. Pursuant to N.J.S.A. 27:5F-36(f), N.J.A.C. 13:85-5.1(d) has been amended to impose the fee upon application for the initial range instruction facility only. Subsection (g) has been amended to update the requirement on providers to obtain the approval of the Chief Administrator prior to providing a MSE course pursuant to N.J.A.C. 13:85-5.1 by contacting the Program Coordinator. Paragraph (h)2 has been amended to remove the date requirement of filing of schedules of classes by providers to the Chief Administrator to allow for a more efficient scheduling process. Subsection (j) has been amended to clarify the use of Motorcycle Safety Education Program funding and materials for the furtherance of the program purposes.

N.J.A.C. 13:85-5.5, Reporting and records, is proposed for amendment. Paragraph (a)4 has been proposed for deletion, as provided for in N.J.S.A. 27:5F-36(g), as the fee is no longer necessary to offset costs.

N.J.A.C. 13:85-5.8, Class meetings, is proposed for amendment to expand the credentials accepted to participate in MSE classes, as well as updating terminology to recognize the use of scooters and three-wheel vehicles, through the amendments proposed at N.J.A.C. 13:85-1.2, and discussed above.

N.J.A.C. 13:85-5.12, Testing, is proposed for amendment. The amendment replaces the Motor Vehicle Commission Motorcycle Safety Education Program Examiner's Guide with N.J.S.A. 27:5F-36 et seq., 39:3-10., and 39:3-10.31 and this chapter.

N.J.A.C. 13:85-5.13, Advertising, is proposed for amendment. "ERC" is updated to "BRC 2."

N.J.A.C. 13:85-5.15, Rider Coach Preparation course, is proposed for amendment. "Shall" has been replaced by "may" in order to allocate resources more effectively.

Subchapter 6, Rider Coach Certification, sets forth standards for the Chief Administrator's certification of instructors.

N.J.A.C. 13:85-6.1, Certification of rider coaches, is proposed for amendment to replace "provisional license" with "probationary license." "Examiner's Guide" has been removed from this section as it is obsolete.

N.J.A.C. 13:85 Appendix B, is proposed for amendment to replace "ERC" with "BRC 2."

Social Impact

The rules proposed for re-adoption with amendments affect the safety of the public by providing for a motorcycle safety education course in which New Jersey motorcyclists may voluntarily seek to improve their motorcycling skills both before and after licensure. The proposed

amendments will help secure the safety of the motoring public by enhancing the efficiency of the Motorcycle Safety Education Program.

The need for a voluntary motorcycle safety education course remains strong and serves as an important component of the State's overall highway traffic safety program, which is aimed at reducing accidents and fatalities. The rules affect prospective and licensed motorcyclists and existing and prospective providers of MSE course instruction. Rules specifying the manner in which the course is to be offered by providers and the standards for successful completion by course participants are in the public interest. The readoption of N.J.A.C. 13:85 continues in force a voluntary educational program that offers motorcycle examination permit holders the means to prepare themselves for licensed motorcycle riding, alleviates the burden on the Commission of testing such examination permit holders for licensing, and offers licensed motorcyclists a means to improve their motorcycling skills.

Economic Impact

The rules proposed for readoption with amendments will not have a direct economic impact on the general public. The rules impose an economic impact on MSE course providers by requiring that providers supply two range instructors when a class includes six or more participants. This adverse economic impact is offset by the enhanced safety course participants derive from having the additional instructor present for classroom and range instruction. Similarly, the rules impose an economic impact on course providers by requiring that providers have available during instruction a person trained to provide emergency medical treatment to course participants.

The rules impose an economic impact on instructors in the form of the cost of a criminal history record check through the Division of State Police at the time of initial application for instructor certification and in the form of the cost of a criminal history name check through the Division of State Police at the time of application for registration if two years have passed since the instructor's last submission of a criminal record history review form. The rules pertaining to experienced level MSE courses also benefit the providers economically in that they allow providers to broaden the scope of MSE courses available to the public. The ability to select and arrange for insurance within the standards established by the Chief Administrator may, in some cases, lower the insurance costs to providers and allow them to utilize the policy for other motorcycle-related activities not directly related to the provision of MSE courses.

The rules proposed for readoption with amendments do not increase the overall economic impact on MSE course providers and instructors. The Commission supplies instructional materials to participants and instructors and assistance with respect to the training of new instructors. Providers remain free to charge tuition, if they choose to do so, consistent with their costs, and members of the public continue to have the ability to weigh this economic factor in their selection of a provider. The Commission will continue to benefit economically from the program. The motorcycle road test waiver eligibility relieves the Commission of the costs that it would otherwise have incurred for testing approximately 7,198 motorcycle examination permit holders this past year.

The rules proposed for readoption with amendments have eliminated the \$10.00 fee associated with the waiver because of the costs savings realized by the Program. The MSE Fund established by N.J.S.A. 27:5F-39 is funded in part with \$5.00 of the fee collected by the Motor Vehicle Commission for each motorcycle license or endorsement issued under the provisions of N.J.S.A. 39:3-10, and any other monies that may be available for motorcycle safety education.

Jobs Impact

The Commission does not anticipate that any jobs will be generated or lost as a result of the rules proposed for readoption with amendments. It is possible, however, that some jobs may be gained or retained by those individuals who provide instruction or those who will be able to gain their driving privileges as a result of the proposed amendments.

Federal Standards Statement

The rules proposed for readoption with amendments have no comparable Federal standard that can be applied, therefore, a Federal standards analysis is not required for this rulemaking.

Agriculture Industry Impact

The Commission does not anticipate that there will be any impact on the agriculture industry as a result of the rules proposed for readoption with amendments.

Regulatory Flexibility Analysis

Some course providers may be small businesses within the meaning of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., in that they employ less than 100 full-time employees. The cost of compliance with the rules proposed for readoption with amendments will be administrative in nature; no professional services are required to comply. The reporting requirements imposed on providers by the rules must be uniform to ensure adherence to the standards of the Motorcycle Safety Foundation and the Commission. The rules proposed for readoption with amendments do not significantly increase reporting requirements. Providers of MSE course instruction bear the cost of transmitting to the Commission certain student testing records, parent/guardian written permission, and attendance rosters, and of making and retaining copies of such records. The Commission has provided no lesser or differing standards for small businesses because the reporting requirements imposed on providers must be uniform to ensure that MSE course providers adhere to the standards of the Motorcycle Safety Foundation and the Commission for the protection of the health, safety, and welfare of program participants, instructors and the public. The recordkeeping requirements are designed to maintain the essential information needed by the Commission in regard to a participant with a minimum of adverse economic impact on providers that may be small businesses.

In accordance with N.J.A.C. 13:85-5.1, the Chief Administrator provides the attendance rosters and other instructional materials needed by course providers and instructors. The instructor guidebooks, which are also provided by the Commission, contain the knowledge test, student answer sheets, and motorcycle skills operator testing forms that may be reproduced by the provider as needed. However, these are recordkeeping duties generally associated with State-sponsored programs and are not excessive or burdensome. Reports required in connection with the occurrence of accidents are also necessary to provide the Chief Administrator a basis for evaluating the overall safety of the MSE course. A provider's duplication costs for retaining these materials will be dependent, therefore, chiefly on the number of classes it chooses to conduct and the number of students participating in such classes and the cost to a provider of owning or leasing equipment for reproducing original materials. The initial capital cost and continuing costs to a small business provider will be dependent on whether a provider must purchase or lease and maintain a copying machine or purchase the services for such copying.

In accordance with N.J.A.C. 13:85-5.6 a provider is required to give each instructor a copy of the provider's medical emergency procedures filed with the Chief Administrator and to post the procedures at a prominent place at each location. The rule directs that a provider must ensure that one person, not necessarily an instructor, is certified in First Aid and CPR and is at the location whenever a class is in session.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments will have no impact on affordable housing and they will not evoke a change in the average costs associated with housing because the rules pertain to motorcycle education and licensing.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules pertain to motorcycle education and licensing.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:85.

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

SUBCHAPTER 1. PURPOSE, SCOPE, AND DEFINITIONS

13:85-1.2 Definitions

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

...
“BRC 2 Suite” means the Basic Rider Course 2, which is a motorcycle rider education course developed by the Motorcycle Safety Foundation intended for experienced motorcycle riders. The BRC 2 consists of two rider courses:

1. **The BRC 2 Skills Practice Rider Course, which provides riding exercises; and**
2. **The BRC 2 License Waiver Rider Course, which provides classroom instruction, riding exercises, and skills evaluation.**

...
“ERC Suite” means the Experienced Rider Course, which is a motorcycle rider education course developed by the Motorcycle Safety Foundation intended for experienced motorcycle riders. The “ERC Suite” consists of three Rider Courses:

1. The ERC Skills Practice Rider Course, which provides riding exercises only;
2. The ERC Skills Plus Rider Course, which provides classroom instruction and riding exercises; and
3. The ERC License Waiver Rider Course, which provides classroom instruction, riding exercises, and skills evaluation.]

...
“Provider” means a public or private [educational institution] entity, including a United States military installation [located in this State], or a New Jersey licensed new motorcycle dealer, which is approved by the Chief Administrator to offer the motorcycle safety education course.

...
“Scooter BRC” means the Scooter Basic Rider Course, which is a scooter rider education course developed by the Motorcycle Safety Foundation to train riders who have little or no riding experience on scooters.

...
“Three-Wheel BRC” means the Three-Wheel Basic Rider Course, which is a three-wheel motorcycle rider education course developed by the Motorcycle Safety Foundation to train riders who have little or no riding experience on three-wheel motorcycles.

13:85-1.3 Establishment of MSE course/levels of instruction

(a) Pursuant to the authority granted under N.J.S.A. 27:5F-36, the Chief Administrator establishes the Motor Vehicle Commission Motorcycle Safety Education Course. The course shall consist of classroom and range instruction and training at the following skill levels:

1. A Basic Skills Level course intended for a newly licensed motorcyclist with limited riding experience or a permit holder. The Basic Skills Level course shall serve as a motorcycle safety education course for purposes of N.J.S.A. 39:3-10.31, under the terms of which the Chief Administrator of the Motor Vehicle Commission may waive the **written knowledge and** road test portion of the examination required for a motorcycle license or endorsement for the holder of an examination permit who has successfully completed a motorcycle safety education course established under the provisions of N.J.S.A. 27:5F-36;

2. An Experienced Level course intended for a motorcyclist who has successfully completed the BRC or has sufficient riding skills and experience to operate a motorcycle with basic proficiency. The [ERC] **BRC 2** Suite License Waiver Rider Course shall serve as a motorcycle safety education course for purposes of N.J.S.A. 39:3-10.31, under the terms of which the Chief Administrator of the Motor Vehicle Commission may waive the **written knowledge and** road test portion of the examination required for a motorcycle license or endorsement for the holder of an examination permit who has successfully completed a motorcycle safety education course established under the provisions of N.J.S.A. 27:5F-36; and

3. An Additional Practice Riding Course intended for a motorcyclist who has completed a Basic Skills Level course, whether such motorcyclist has or has not passed skill testing upon his or her completion of a Basic Skills Level course. The Additional Practice Riding Course

shall serve as a motorcycle safety education course for purposes of N.J.S.A. 39:3-10.31, under the terms of which the Chief Administrator of the Motor Vehicle Commission may waive the **written knowledge and** road test portion of the examination required for a motorcycle license or endorsement for the holder of an examination permit who has successfully completed a motorcycle safety education course established under the provisions of N.J.S.A. 27:5F-36. **The Additional Practice Riding Course skills waiver may only be attempted once within 180 days after completion of the BRC, by any participant, in order to obtain a skills waiver.**

(b) The Chief Administrator hereby adopts and incorporates by reference as the curriculum for each level of instruction and training the following:

1. (No change.)

2. For the Experienced Level course, the sequence of units identified in Appendix B to this chapter, developed by the MSF as set forth in the May 2003 MSF [ERC] **BRC 2** Suite Rider Coach Range and Classroom Cards, as amended and supplemented **and as set forth in the April 2005 MSF BRC Rider Coach Guide, as amended and supplemented.**

3.-4. (No change.)

(c) (No change.)

(d) Except where [these rules] **this chapter** indicates otherwise, classroom and range instruction in the MSE course and the facilities and equipment used to provide the course shall be provided in accordance with the standards and requirements established by the MSF for the presentation of the MSF BRC, [ERC] **BRC 2** Suite, and Additional Practice Riding Course units as set forth in the April 2005 MSF BRC Rider Coach Guide, as amended and supplemented, and in the May 2003 MSF [ERC] **BRC 2** Suite Rider Coach Range and Classroom Cards, as amended and supplemented.

(e) (No change.)

(f) The MSE course may be provided by [the Motor Vehicle Commission] **providers approved by the Chief Administrator, pursuant to N.J.A.C. 13:85-6,** to participants meeting the qualifications set forth in this chapter [and may also be provided to such participants by a public or private educational institution, including a United States military installation located in this State, or a New Jersey licensed new motorcycle dealer, which is approved by the Chief Administrator pursuant to N.J.A.C. 13:85-5.1].

(g) (No change.)

SUBCHAPTER 2. QUALIFICATIONS TO PARTICIPATE IN MSE COURSES

13:85-2.3 Basic Skills Level course

(a) To participate in the Basic Skills Level course, **Scooter BRC, or Three-Wheel BRC** a person shall:

1. Have in his or her possession during each day of course instruction and available for display a [motorcycle operator examination permit issued to the person by the Motor Vehicle Commission, which has been validated for the practice driving of a motorcycle and] **Drivers License or Motorcycle Learners Permit that** is not suspended, revoked, or expired, or a motorcycle license or endorsement [issued to the person by the Motor Vehicle Commission], which is not suspended, revoked, or expired;

2. Have the physical ability to operate the controls of a motorcycle, **scooter, and/or three-wheel vehicle, as the circumstances warrant;**

3. Have the ability to balance a two-wheeled vehicle, **when applicable; and**

4. (No change.)

(b)-(e) (No change.)

13:85-2.4 [Experienced] **BRC 2** Level course

(a) To participate in the [Experienced] **BRC 2** Level course, a person shall:

1. Have in his or her possession during each day of course instruction and available for display [a] **his or her** motorcycle permit, license, or endorsement [issued to the participant by the Motor Vehicle Commission], which is not suspended, revoked, or expired;

2. (No change.)

- 3. Supply for range instruction a motorcycle in safe operating condition [and displaying a valid motorcycle inspection certificate of approval]; and
- 4. (No change.)
- (b) (No change.)

SUBCHAPTER 3. SUCCESSFUL COMPLETION OF COURSE

13:85-3.2 Successful completion of the MSE [Experienced Level course] **BRC 2**

- (a) To successfully complete the [Experienced Level course] **BRC 2**, a participant shall:
 - 1. (No change.)
 - 2. Achieve a score of at least 80 percent correct responses on a written motorcycle knowledge test consisting of at least 20 questions upon completion of the [ERC] **BRC 2** Suite License Waiver Rider Course; and
 - 3. Demonstrate proficiency in the operation of a motorcycle by achieving a score of not more than 20 penalty points assessed by the examining rider coach during a motorcycle skill test upon completion of the [ERC] **BRC 2** Suite License Waiver Rider Course.
- (b) (No change.)

13:85-3.3 Successful completion of the MSE Additional Practice Riding Course

- (a) To successfully complete the Additional Practice Riding Course **for retest and waiver purposes**, a participant shall:
 - 1. Attend, participate in, and successfully complete each unit of the curriculum **within 180 days of the successful completion of the BRC**; and
 - 2. (No change.)
 - (b) (No change.)

SUBCHAPTER 4. MOTOR VEHICLE COMMISSION COURSE

13:85-4.1 Course registration fee

- (a) (No change.)
- (b) In the event that the Chief Administrator determines in accordance with (a) above that the imposition of a registration fee upon participants in the Motor Vehicle Commission MSE course is necessary, a registration fee shall be collected from each participant in the amounts set forth below:
 - 1. (No change.)
 - 2. \$100.00 for each Rider Course included within the [ERC] **BRC 2** Suite; and
 - 3. (No change.)

13:85-4.2 Schedule and registration

- (a) The Motor Vehicle Commission shall [post a notice of the schedule of classes in the MSE Basic Skills Level, Experienced Level and other courses offered during a calendar year] **provide access to regularly updated scheduling information, including links to provider websites and schedules**, on the Commission’s website at www.njridesafe.org. [at least one month prior to the start of classes. The schedule] **Scheduling information** shall also be made available to the public by the Motor Vehicle Commission upon request made to the Commission at the address set forth in N.J.A.C. 13:85-1.3(g). [The schedule] **Scheduling information** shall include the times, dates, and locations of the classes offered, any registration period, any registration fee imposed by the Chief Administrator for each course and the means by which a person who meets the requirements of this chapter to participate may register. [Classes shall be scheduled no earlier than March 1 and no later than December 31.]
- (b)-(d) (No change.)

SUBCHAPTER 5. MSE COURSES OFFERED BY PROVIDERS

13:85-5.1 MSE course providers

- (a) The Chief Administrator may approve a public or private [educational institution] **entity**, including a United States military installation [located in this State], or a New Jersey licensed new motorcycle dealer to also provide the MSE course. The approval signifies that:

- 1.-3. (No change.)
- (b) (No change.)
- (c) A “public or private [educational institution] **entity**” shall include the following:
 - 1.-3. (No change.)
 - 4. A not-for-profit corporation organized under Title 15A of the New Jersey Statutes for educational purposes in the field of motorcycle safety education that is tax-exempt under Section 501(c)(3) of the United States Internal Revenue Code; [and]
 - 5. A United States military installation [located in this State.]; and
 - 6. Any other public or private entity approved by the Chief Administrator, pursuant to this subchapter.**
- (d) An applicant that desires the approval of the Chief Administrator to provide the MSE course shall submit an application to the Chief Administrator on a form supplied by the Motor Vehicle Commission and provide any additional pertinent information when requested to do so by the Chief Administrator. The application shall be **required to be** accompanied by [a] **an initial** course certification fee of \$250.00, payable to the Motor Vehicle Commission, for [each] **the initial** location at which the applicant intends to offer motorcycle range instruction. The application shall include the following information:
 - 1.-13. (No change.)
 - (e)-(f) (No change.)
 - (g) The provider shall [submit the application in (d) above to] **contact the State Program Coordinator (whose contact information is located at N.J.A.C. 13:85-1.3(g)) to obtain the written approval of the Chief Administrator, pursuant to this section**, prior to providing the MSE course at any additional location or any new or altered range or classroom or other facility related to the course at an existing location. The Chief Administrator shall have the additional location or new or altered range or classroom or facility at an existing location inspected prior to issuing any approval for its use in the course.
 - (h) The provider shall give prior notice to the Chief Administrator of each MSE class it offers in accordance with the following:
 - 1. (No change.)
 - 2. [By February 1 of the current calendar year, the] **The** governing board or appropriate officer of the provider shall file with the Chief Administrator the schedule of classes to be offered in the current calendar year. The schedule shall show the times, dates, and locations of the classes offered in each course, the intended date of publication of the schedule, and the start of the provider’s registration period. The provider shall notify the Chief Administrator within five days of the cancellation of a scheduled class or any other change that occurs in the schedule filed with the Chief Administrator. No additional class shall be scheduled without prior notice to the Chief Administrator of at least five days.
 - (i) (No change.)
 - (j) The following concern classroom instructional materials and uniformity of course content and standards:
 - 1. (No change.)
 - 2. The Chief Administrator may also use the monies in the Motorcycle Safety Education Fund to make available to each provider for use [by rider coaches] in a classroom or on a training range:
 - i. The course videotape, **DVD**, chart, slide, or other classroom instructional aids;
 - ii.-iii. (No change.)
 - iv. Evaluation, coaching, and range management guides; [and]
 - v. Course completion cards, attendance rosters, and other materials the Chief Administrator determines are necessary or appropriate to document the student’s participation and performance in a course[.];
 - vi. Translators or interpreters for the hearing impaired; and**
 - vii. Other necessary materials and/or services as approved and designated by the Chief Administrator to defray the costs of the MSE program as authorized by N.J.S.A. 27:5F-39.**
 - 3.-4. (No change.)
 - 5. The Chief Administrator may also use monies in the Motorcycle Safety Education Fund for other reasonable purposes relating to defraying the costs of the motorcycle safety education program as authorized by N.J.S.A. 27:5F-39.**

13:85-5.5 Reporting and records

(a) Providers shall submit the following items to the Chief Administrator for each class within 20 business days after the completion of a course:

1.-3. (No change.)

[4. In accordance with P.L. 2007, c. 179, providers shall be responsible to the Motor Vehicle Commission for the payment of a \$10.00 road test waiver fee for each holder of a motorcycle examination permit who has successfully completed a motorcycle safety education course and has qualified for a waiver of the road test portion of the examination required for a motorcycle license or endorsement pursuant to N.J.S.A. 39:3-10.31. Providers shall remit such fees to the Motor Vehicle Commission for payment into the Motorcycle Safety Education Fund established by N.J.S.A. 27:5F-39.]

13:85-5.8 Class meetings

(a) (No change.)

(b) On each day that a class meets, prior to the start of instruction and training in the course, the rider coach assigned to the class shall:

1. (No change.)

2. Ensure that each participant:

i. Possesses the motorcycle license or endorsement or motorcycle operator examination permit required for participating in the course, **if applicable**:

ii.-iii. (No change.)

iv. Where the participant supplies a motorcycle, **scooter or three-wheel vehicle**, possesses the documentation concerning ownership, registration, inspection, and insurance required by N.J.A.C. 13:85-2.

(c) (No change.)

13:85-5.12 Testing

The testing of a participant's knowledge and the evaluation of a participant's motorcycle operator skills shall be conducted in conformance with [the 9th edition of the Motor Vehicle Commission Motorcycle Safety Education Program Examiner's Guide, as amended and supplemented, incorporated herein by reference. The Guide shall be distributed by the Motor Vehicle Commission to rider coaches and providers at the start of each training year.] **N.J.S.A. 27:5F-36 et seq., 39:3-10, and 39:3-10.31 and this chapter.**

13:85-5.13 Advertising

The provider shall not advertise, in connection with the offering of the MSE course, that the provider has the authority to issue a motorcycle permit, license, or endorsement upon a participant's successful completion of the MSE course. Any advertisement for an MSE class making the representation that a student who successfully passes the MSE Basic Skills course, the [ERC] **BRC 2** Suite License Waiver Rider Course, or the Additional Practice Riding Course is eligible for a waiver of the road test portion of the motorcycle licensing test conducted by the Motor Vehicle Commission shall include the following statement with respect to such representation: "(Name of Provider) has been approved by the Chief Administrator of the Motor Vehicle Commission to offer the New Jersey Motorcycle Safety Education Course."

13:85-5.15 Rider Coach Preparation course

(a) The provider may sponsor a Motorcycle Safety Foundation Rider Coach Preparation (RCP) course that shall require the use of an MSE class for the student teaching portion of the MSF RCP with the prior written approval of the Chief Administrator. The Chief Administrator's designee [shall] **may** observe the student teaching portion of the MSF RCP and the administration of the motorcycle skill test of any MSF RCP course approved by the Chief Administrator.

(b)-(c) (No change.)

SUBCHAPTER 6. RIDER COACH CERTIFICATION

13:85-6.1 Certification of rider coaches

(a) Any person seeking to qualify for certification as a rider coach of the MSE course shall apply in writing to the Chief Administrator, and as of the date the certification is issued by the Chief Administrator, shall:

1.-3. (No change.)

4. Have no record of a suspension or revocation of his or her driver's license, motorcycle license or endorsement, special learner's permit, examination permit, or [provisional] **probationary** license during the past two years;

5. (No change.)

6. Have accumulated no more than four points assessed against his or her driver's license or motorcycle license or endorsement, special learner's permit, examination permit, or [provisional] **probationary** license for motor vehicle offenses during the past two years; and

7. (No change.)

(b)-(e) (No change.)

(f) The period of validity of the certification shall end as of the date:

1.-6. (No change.)

7. The rider coach has not complied with the requirements of an approved course curriculum and/or the Motor Vehicle Commission's Motorcycle Safety Education Program [Examiner's Guide].

(g)-(h) (No change.)

APPENDIX B

(see N.J.A.C. 13:85-1.3(b)2)

New Jersey Motorcycle Safety Education Course

Experienced Level Course--MSF:[ERC]**BRC 2** Suite

Sequencing:

From the MSF:[ERC]**BRC 2** Suite

...

Note: Each classroom segment is intended to be a five to 10 minute discussion of key safety points in the [ERC] **BRC 2** Suite License Waiver Rider Course, and a 12 to 15 minute discussion of key safety points in the [ERC] **BRC 2** Suite Skills Plus Rider Course.

Note: Classroom segments are not used in the [ERC] **BRC 2** Suite Skills Practice Rider Course, and no testing is conducted in the [ERC] **BRC 2** Suite Skills Practice Rider Course.

Note: A skill test and a knowledge test are required in the [ERC] **BRC 2** Suite License Waiver Rider Course.

Note: A skill test and/or a knowledge test are optional in the [ERC] **BRC 2** Suite Skills Plus Rider Course.

OTHER AGENCIES

(a)

FORT MONMOUTH ECONOMIC REVITALIZATION AUTHORITY

Land Use

Proposed New Rules: N.J.A.C. 19:31C-3

Authorized By: Fort Monmouth Economic Revitalization Authority,
Bruce Steadman, Director.

Authority: N.J.S.A. 52:27I-18 et seq., specifically N.J.S.A. 52:27I-26kk.

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

Proposal Number: PRN 2013-034.

Submit written comments by April 20, 2013 to:

Bruce Steadman, Director
Fort Monmouth Economic Revitalization Authority
2-12 Corbett Way
Suite C
Eatontown, NJ 07724

The agency proposal follows:

Summary

The Fort Monmouth Economic Revitalization Authority ("FMERA" or "Authority"), pursuant to the Fort Monmouth Economic Revitalization Act ("the Act"), P.L. 2010, c. 51 (N.J.S.A. 52:27I-18 et seq.), is proposing these rules consistent with, and in furtherance of, the Fort