

iii. The provider is the exclusive provider of such services.

13. The provider shall retain all transactional records and documents relating to this subchapter for three years from the time an activity takes place and shall make those records available for inspection and audit by authorized representatives, agents, or contractors of the State. All documentation, reports, and files shall be kept at the provider's office.

14. The Commission, its authorized representatives, and its agents shall have the right to conduct audits and re-audits of the provider at any time throughout the provision of services under this subchapter and up to three years after the termination of services as an approved provider under this subchapter. The provider shall provide the Commission with access to its books and records pertaining to transactions performed under this subchapter, for the purposes of audits and re-audits.

15. The provider may issue a corrected control-numbered TA, and shall provide the Commission with a corrected copy on the same day.

16. The Commission may, in its sole discretion, deny, terminate, or cancel participation by any provider in the services anticipated in this subchapter if any one or more of the following conditions exists with respect to any such provider:

- i. Failure to follow required or approved payment procedures;
- ii. Failure to comply with any local, State, or Federal law or regulation;
- iii. Misuse of any Commission-controlled inventory item assigned for distribution by a provider;
- iv. Failure to provide requested information or records for the purpose of an audit; or
- v. Any other unacceptable condition or practice identified by the Commission.

13:18-2.25 Provider requirements

(a) A provider shall, notwithstanding any other requirements of this subchapter:

- 1. Be responsible for the professional quality, accuracy, security, and timely completion of TAs issued pursuant to this subchapter;
- 2. Obtain all required source documents prior to issuance of TAs, including the location to which the permittee desires the permit to be transmitted;
- 3. Provide daily reports to the Commission of TAs sold;
- 4. Not be reimbursed in any manner by the Commission for voided TAs, which are the responsibility and cost of the provider;
- 5. Not resell TAs whether or not the vehicle is registered in another state that has reciprocity with the State of New Jersey; and
- 6. Not sell, consign, or otherwise transfer any TAs in its possession to another service organization or to any member of the transportation industry, other than its customer that is otherwise known as a TA permittee.

(a)

**MOTOR VEHICLE COMMISSION
Executive and Administrative Service
International Fuel Tax Agreement Implementation
Proposed Amendment: N.J.A.C. 13:18-3.5
Proposed New Rules: N.J.A.C. 13:18-3.20 and 3.21**

Authorized By: Raymond P. Martinez, Chairman and Chief Administrator, Motor Vehicle Commission.
Authority: N.J.S.A. 39:1-1 et seq., 54:39A-24, and 39:2A-1 et seq.
Calendar Reference: See Summary below for explanation of exception to calendar requirement.
Proposal Number: PRN 2014-079.

Submit comments by August 1, 2014, to:
Kate Tasch, APO
Regulatory and Legislative Affairs
Motor Vehicle Commission
225 East State Street

PO Box 162
Trenton, NJ 08666-0162

The agency proposal follows:

Summary

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

The Motor Vehicle Commission (Commission) is proposing amendments to the provisions of N.J.A.C. 13:18-3, Executive and Administrative Service - International Fuel Tax Agreement Implementation. Amendments are proposed in order to: 1. reduce the regulatory burden by agreeing to the request of the regulated community to have the option of purchasing either one trip permit, or a block of 10 trip permits; and 2. permit individuals or entities to act as a "provider" of trip permits to their customers who are motor carriers, as a matter of convenience to those motor carriers who would like to use a provider as an intermediary with the Commission in obtaining trip permits that motor carriers need to operate legally.

N.J.A.C. 13:18-3.5(a) provides that a trip permit shall be issued by the Chief Administrator upon application. The proposed amendments to subsection (a) prescribe that the trip permit may be offered by an approved provider of the Commission, either one trip permit or a block of 10 trip permits may be had, and the Commission seal shall be electronically affixed in order to represent the trip permit as an official document of the Commission. The current practice of the Commission providing one trip permit at a time would continue, but the option for the Commission to provide a block of 10 trip permits upon receipt of a request from a provider would be allowed.

Subsection (b) provides that a trip permit is valid for 96 hours. A proposed amendment provides that the trip permit may be offered by an approved provider of the Commission.

Subsection (e) provides that trip permits may not be provided to those whose International Fuel Tax Agreement (IFTA) license has been suspended, revoked, or canceled for any reason. A proposed amendment provides that the trip permit may be offered by an approved provider of the Commission.

Proposed new subsection (f) would allow the Commission to revoke a trip permit for any appropriate reason.

Proposed new N.J.A.C. 13:18-3.20 prescribes the provider application requirements. In order that the Commission may properly permit individuals and entities to fully and properly complete and issue a trip permit, the application requirements for any entity that wishes to apply to be a provider of the Commission for purposes of distributing trip permits are proposed. Also, subsection (c) provides definitions relating to the application and subsection (d) provides operating requirements relating to the provider.

Proposed new N.J.A.C. 13:18-3.21 prescribes provider requirements.

Social Impact

The proposed amendments and new rules will have a positive social impact. The purpose of these proposed amendments and new rules is to reduce the regulatory burden by providing the regulated community the option of a block of 10 trip permits that may be provided to a motor carrier. Further, the proposed amendments and new rules add that a properly designated agent of the Commission may participate in the processes related to the issuance of trip permits and adds two new sections, one that describes the application for trip permits and a second that describes provider requirements.

Economic Impact

The economic impact of the proposed amendments and new rules on the Commission consists of the costs of oversight of the trip permit, which will be reduced by these proposed amendments and new rules. The costs to the motor carriers may be reduced potentially with purchases in blocks of 10 by a potentially increased number of potential vendors who may make the purchases.

Federal Standards Statement

There are no Federal standards applicable to the subject matter of the proposed amendments and new rules.

Jobs Impact

The proposed amendments and new rules are anticipated to result in lower motor carrier costs that could potentially lead to the creation of new jobs.

Agriculture Industry Impact

The proposed amendments and new rules do not have any impact on the agriculture industry in this State.

Regulatory Flexibility Analysis

The proposed amendments and new rules continue reporting and recordkeeping requirements on motor carriers, some of which may be small businesses, as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The recordkeeping requirements pertain to the filing of requests for trip permits. An approved provider of the Commission has related reporting and recordkeeping requirements. The proposed amendments and new rules do not require small businesses to engage additional professional services, but instead will reduce such requirements by reducing the number of times they must apply for a trip permit.

The proposed amendments and new rules do not necessitate capital and annual expenditures for compliance by small businesses. These requirements are intended to ensure that motor carriers entering the State are recorded for purposes of ensuring the payment of required motor fuel taxes. Therefore, there is no differentiation in compliance based on business size.

The Commission has given careful consideration to these matters and determined that the proposed amendments and new rules are necessary to be applied to all motor carriers who are not otherwise registered as part of IFTA.

Housing Affordability Impact Analysis

The proposed amendments and new rules will have no impact on housing affordability and there is an extreme unlikelihood that they will evoke a change in the average costs associated with housing because they pertain to the filing of requests for trip permits.

Smart Growth Development Impact Analysis

The proposed amendments and new rules will have an insignificant impact on smart growth and there is an extreme unlikelihood that they 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 they pertain to the filing of requests for trip permits.

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

SUBCHAPTER 3. INTERNATIONAL FUEL TAX AGREEMENT IMPLEMENTATION

13:18-3.5 Trip permits

(a) A licensing permit credential known as a trip permit shall be issued **by the Commission, or by an approved provider of the Commission**, upon application on forms prescribed by the Chief Administrator, in lieu of regular IFTA licensing credentials. **A block of 10 trip permits may be issued upon application to the Commission by an approved provider. The Commission seal shall be electronically pre-affixed to the trip permit form prior to mass reproduction.**

(b) The trip permit is a 96-hour IFTA credential issued by the Chief Administrator, **or by an approved provider of the Commission**, to an out-of-State carrier for a specific vehicle, in lieu of regular IFTA licensing. A trip permit is issued to a user whose vehicle(s) in the aggregate makes not more than six trips into or through New Jersey in a 12-month period.

(c)-(d) (No change.)

(e) The Commission, **or an approved provider of the Commission**, may refuse to issue a trip permit to a carrier that formerly held an IFTA license issued by the Commission, **or an approved provider of the Commission**, which was suspended, revoked, or canceled for any reason.

(f) The Commission, for any appropriate reason, may revoke any trip permit issued to any person or entity, including those issued by an approved provider of the Commission.

[(f)] (g) (No change in text.)

13:18-3.20 Application for provider license; contents; related requirements

(a) Application for a provider license to provide trip permits shall be made in a format prescribed by the Chief Administrator. The application shall be submitted to the Office of Motor Carrier Services, New Jersey Motor Vehicle Commission, 225 East State Street, Trenton, New Jersey 08666.

(b) The application shall be on 8½ inches by 11 inches paper to be supplied by the applicant and shall include the following information:

1. The names, addresses, and business telephone numbers of the applicant's principals, partners, or corporate officers, and the name, address, and business telephone number of the officer(s) or employee(s) who will serve as a daily contact;

2. The name, address, and business telephone number of a registered agent designated to receive service of process on behalf of the applicant. The agent must be located and available at a physical street address within the State of New Jersey during normal business hours;

3. The name, address, and business telephone number of the individual(s) authorized to transmit trip permit reports to the Commission;

4. The applicant's Federal Tax Identification Number;

5. The applicant's State Tax Identification Number;

6. The applicant's email address, address for inquiries, and telephone number;

7. An inventory security plan that shall include, at a minimum:

i. Acknowledgement via email to the Commission of receipt via email of the control numbers;

ii. Daily reporting of all sequentially-issued control numbers for trip permits by emailing the Commission a scanned image of the completed permit forms to the Commission email address designated by the Commission;

iii. An explanation of how to monitor and secure all assigned inventory under its control;

iv. Assurance that only trained employees may handle and inspect inventory, and only as needed to maintain an electronic perpetual inventory of all trip permit control-numbered items;

v. Assurance that each inventory item is traceable by the trip permit control-number, from acceptance through issuance or assignment to the provider's customers; and

vi. A statement that the provider shall permit the Commission access to the provider's inventory system and daily reporting mechanism for the purpose of performing audit(s);

8. When application is made by an individual, the application shall be signed and sworn to by the individual. In the case of a partnership, the application shall be signed and sworn to by all partners. In the case of a corporation, the application shall be signed and sworn to by the president and attested to by the secretary; and

9. The provider must notify the Chief Administrator, in writing, within five business days of any change in the information submitted as part of the application.

(c) Definitions. The following words and terms shall have the following meanings as used in this section, unless the context clearly indicates otherwise.

"Block" means a block of 10 blank control-numbered trip permits issued by the Commission to approved providers.

"Controlled inventory" means specific items created, regulated, verified, and supplied by the Commission to allow providers to process transactions. Controlled inventory consists of blank but control-numbered trip permits.

"Motor vehicle record" means any document or record that pertains to a motor vehicle operator's permit, driver's license, vehicle registration, title, identification card, and customer information maintained in any format by the Commission.

"Permittee" means a person who needs a trip permit.

“Person” means a natural person, firm or co-partnership, corporation, association, or other artificial body, and their members, officers, agents, employees, or other representatives.

“Personal information” means as defined at N.J.S.A. 39:2-3.3.

“Provider” means a person authorized by the Commission to buy blocks of 10 blank control-numbered trip permits consistent with N.J.S.A. 54:39A-24 and this chapter.

“Seal” means the Commission seal adopted by the Commission Board on June 3, 2003, pursuant to N.J.S.A. 39:2A-13.a(2), which shall be electronically pre-affixed to the trip permit prior to mass reproduction.

(d) The operating requirements shall be as follows:

1. The provider shall maintain all motor vehicle inventory and transactional materials in a secure location with limited access by the provider’s personnel, until fully and properly completed and issued to a specifically-identified commercial vehicle for purposes that fully comply with the requirements of this subchapter.

2. The provider is prohibited from issuing trip permits to any person or entity in excess of six trips in a 12-month period.

3. The provider shall obtain and maintain a secure facility suitable for performing all services required under this subchapter. All costs incurred by the provider in purchasing, leasing, or renting, or renovating the required premises shall be borne solely by the provider. If the office space is shared by another business, all operations performed under this subchapter shall be physically segregated from the areas associated with the other business, with secure access limited only to the provider’s authorized personnel. The provider shall not move the facilities established under the terms of this subchapter without the prior written approval of the Commission.

4. The provider shall receive no compensation from the Commission for services rendered by the provider pursuant to this subchapter. The provider may charge its customers participation or administrative fees for each transaction.

5. The provider shall not subcontract to fulfill any of its obligations under this subchapter.

6. In accordance with N.J.S.A. 39:2-3.3 et seq., and the Federal Drivers’ Privacy Protection Act of 1994 (DPPA), 18 U.S.C. §§ 2721 et seq., the provider and its employees shall not use or retain data or information gained from the Commission unless for the sole purpose of meeting the requirements of this subchapter and internal audit obligations or otherwise without written consent from the Commission. The provider shall also take all steps necessary to protect personal information from theft and other unauthorized use while in its possession. The provider must immediately, within no more than 24 hours of discovery, notify the Commission Security and Investigations Unit and the Office of Motor Carrier Services when a security or DPPA breach has been identified.

7. The provider is required to reconcile, account for, and return all assigned, yet unused, control-numbered inventory to the Commission’s warehouse within 20 business days of discontinuing its services pursuant to this subchapter, unless otherwise requested in writing by the Commission.

8. All monies collected by the provider for trip permits issued pursuant to this subchapter must be reported to the Commission at the end of the business day, along with faxed copies and a log of trip permits. The provider shall pay the Commission for each block of 10 blank but control-numbered trip permits. The payment shall be made in the amount of \$250.00 for each block of 10 trip permits by check payable to the Commission and remitted to the Commission Program Manager.

9. The provider shall provide a copy of its current trip permit training program to the Commission, including any written materials, guides, and manuals. The Commission reserves the right to, with and without notice, observe any or all training sessions conducted. The provider shall inform all its customers of any changes in the Commission policies and procedures affecting this subchapter. The provider shall arrange for any additional training that may be required due to audit exceptions, procedures, or other circumstances.

10. The Commission shall email all control-numbered inventory to the provider.

11. The provider shall be authorized and responsible to collect from its customers all fees, payments, surcharges, and other sums in connection with transactions processed through this subchapter.

12. The provider may engage in promotional activities with respect to this subchapter, including the solicitation of potential customers, in person, by mail, telephone, internet, or other media. The provider shall not issue any news releases or promotional activities pertaining to any aspect of the services provided under this subchapter without the prior written consent of the Commission. The provider is prohibited from soliciting participation in this subchapter at motor vehicle agencies or other Commission locations. The provider may use the Commission’s name as necessary in connection with its provision of services to its customers, with the prior written approval of the Commission. The provider shall not state or imply that:

i. The Commission requires the use of the provider’s services by members of the public;

ii. The Commission recommends the use of the provider’s services to the exclusion of other similarly available services; or

iii. The provider is the exclusive provider of such services.

13. The provider shall retain all transactional records and documents relating to this subchapter for three years from the time an activity takes place and shall make those records available for inspection and audit by authorized representatives, agents, or contractors of the State. All documentation, reports, and files shall be kept at the provider’s office.

14. The Commission, its authorized representatives, and its agents shall have the right to conduct audits and re-audits of the provider at any time throughout the provision of services under this subchapter and up to three years after the termination of services as an approved provider under this subchapter. The provider shall provide the Commission with access to its books and records pertaining to transactions performed under this subchapter, for the purposes of audits and re-audits.

15. The provider may issue a corrected control-numbered trip permit, and shall provide the Commission with a corrected copy on the same day.

16. The Commission may, in its sole discretion, deny, terminate, or cancel participation by any provider in the services anticipated in this subchapter if any one or more of the following conditions exists with respect to any such provider:

i. Failure to follow required or approved payment procedures;

ii. Failure to comply with any local, State, or Federal law or regulation;

iii. Misuse of any Commission-controlled inventory item assigned for distribution by a provider;

iv. Failure to provide requested information or records for the purpose of an audit; and

v. Any other unacceptable condition or practice identified by the Commission.

13:18-3.21 Provider requirements

(a) A provider shall, notwithstanding any other requirements of this subchapter:

1. Be responsible for the professional quality, accuracy, security, and timely completion of trip permits issued pursuant to this subchapter;

2. Obtain all required source documents prior to issuance of trip permits, including the location to which the permittee desires the permit to be transmitted;

3. Provide daily reports to the Commission of trip permits sold;

4. Not be reimbursed in any manner by the Commission for voided trip permits, which are the responsibility and cost of the provider;

5. Not resell trip permits whether or not the vehicle is registered in another state that has reciprocity with the State of New Jersey; and

6. Not sell, consign, or otherwise transfer any trip permit in its possession to another service organization or to any member of the

transportation industry, other than its customer that is otherwise known as a trip permit permittee.

(a)

MOTOR VEHICLE COMMISSION

Person with Diabetes Permitted to Voluntarily Make Notation on License and Identification Cards

Proposed New Rules: N.J.A.C. 13:21-8.23 and 16.4

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

Authority: N.J.S.A. 39:3-10.8a.

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

Proposal Number: PRN 2014-077.

Submit written comments by August 1, 2014, to:

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

The agency proposal follows:

Summary

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

The purpose of the proposed new rules by the Motor Vehicle Commission (Commission) is to implement the provisions of P.L. 2013, c. 139, sec. 1, permitting any holder of a driver license or nondriver identification card to voluntarily indicate that he or she is an insulin dependent diabetic and to have a notation placed on the license or card indicating that he or she is an insulin dependent diabetic. The Commission currently issues driver licenses and nondriver identification cards pursuant to authority found at Title 39, Chapter 3, of the New Jersey Statutes. P.L. 2013, c. 139, sec. 1, states that the designation that a person is an insulin dependent diabetic "shall be done in accordance with procedures prescribed by the chief administrator."

Proposed new N.J.A.C. 13:21-8.23 sets forth the process by which a person may apply to have an insulin dependent diabetic notation placed on his or her driver license and the process by which the person may have the notation removed from the driver license.

Proposed new N.J.A.C. 13:21-16.4 sets forth the process by which a person may apply to have an insulin dependent diabetic notation placed on his or her nondriver identification card and the process by which the person may have the notation removed from the nondriver identification card.

Social Impact

The Commission anticipates that the proposed new rules will have a positive social impact on the citizens of New Jersey, the law enforcement community, and medical professionals. A person who is an insulin dependent diabetic may now place a notation on his or her driver license or nondriver identification card that will assist law enforcement and medical professional providers to identify him or her as an insulin dependent diabetic and provide the person with necessary medical attention should that person be unable to communicate due to diabetic seizure.

Economic Impact

The proposed new rules should not have a significant economic impact on persons who are insulin dependent diabetics. A person who is an insulin dependent diabetic and would like to have a notation placed on his or her driver license or nondriver identification card will have to obtain a prescription from a medical professional indicating the medical condition. The person may be charged a co-pay for a visit to the medical

professional to obtain the prescription. However, the Commission encourages applicants to obtain their medical prescriptions with a regularly scheduled medical professional appointment to avoid additional co-pays. Further, the proposed new rules do not require the applicant to undergo a physical examination at the time of obtaining the prescription. If the medical professional is aware that the applicant is an insulin dependent diabetic, the medical professional may provide the prescription without a full examination, thereby limiting any economic impact on the applicant. The list of medical professionals who can provide the prescription includes physician assistants and nurse practitioners, which will further limit the economic impact on the applicant. Finally, the request to place the notation on the applicant's driver license or nondriver identification card is completely voluntary.

The Commission also gave careful consideration to requiring the applicant to purchase a duplicate license at a cost of \$11.00 if the applicant already has a valid driver license or nondriver identification card and wishes to place the notation on his or her license or card prior to the expiration of the license or card. Issuance of a new driver license or nondriver identification card requires the use of time and material, which the Commission must be reimbursed for. If the applicant wishes to avoid the duplicate license fee for issuance of a new driver license or nondriver identification card with the notation, the applicant can wait until his or her current driver license or nondriver identification card expires to apply to have the notation added.

Overall, the Commission anticipates that the proposed new rules will have a neutral economic impact on the Commission. The Commission does not anticipate that there will be a large population of insulin dependent diabetics who will request the insulin dependent diabetic notation.

Federal Standards Statement

No comparable Federal law or regulation exists; therefore a Federal standards analysis is not applicable to this rulemaking.

Jobs Impact

The Commission anticipates minimal job growth in relation to the new rules. The new rules set forth a process the Commission will use to permit an applicant for a driver license or nondriver identification card to place a notation on the applicant's license or card that the applicant is an insulin dependent diabetic. This may result in the need for additional resources within the Commission.

Agriculture Industry Impact

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

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis is not required because the proposed new rules do not impose reporting, recordkeeping, or other compliance requirements on small businesses. The proposed new rules relate solely to voluntarily notifying the Commission of a medical condition and having that medical condition noted on the driver license or nondriver identification card of an individual.

Housing Affordability Impact Analysis

The proposed new rules will not have any impact on affordable housing in New Jersey, and it is extremely unlikely that the rules would evoke a change in the average costs associated with housing because the proposed new rules relate solely to voluntarily notifying the Commission of a medical condition and having that medical condition noted on the driver license or nondriver identification card of an individual.

Smart Growth Development Impact Analysis

The proposed new rules will have no impact on smart growth and there is an extreme unlikelihood that the new 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 proposed new rules relate solely to voluntarily notifying the Commission of a medical condition and having that medical condition noted on the driver license or nondriver identification card of an individual.