

(c) (No change.)

13:73-3.5 Collection of assessment of cost for horse racing industry employees [of owners]

(a) [Pursuant to N.J.A.C. 13:70-3.29 and 13:71-6.1, every] **Every** owner **and trainer** of horses shall establish a horsemen’s bookkeeper account at each track association where horses owned **or trained** by him or her have been or will be entered to race.

(b) (No change.)

(c) Pursuant to N.J.A.C. 13:70-3.29 and 13:71-21.8, the horsemen’s bookkeepers shall transmit on a weekly basis all monies collected pursuant to this chapter for the cost of workers’ compensation insurance or self-insurance coverage to the [New Jersey Racing] Commission, which shall [then] deposit those monies in a separate account for the use of the Board.

SUBCHAPTER 4. PURCHASE

13:73-4.1 Purchase of workers’ compensation insurance for horse racing industry employees [of owners]

The Board shall review the quotations of premiums provided through the Department of Treasury for workers’ compensation insurance coverage submitted by insurers and shall, within its discretion, select the type of coverage and insurer, pursuant to applicable State law.

SUBCHAPTER 6. APPEALS

13:73-6.1 Appeal procedure

[(a)] Any owner **or trainer** who has paid the cost of assessment pursuant to N.J.A.C. 13:73-3.5, who contests the calculation of the amount of gross overnight purses **or other assessment** deducted from his or her horsemen’s bookkeeper account, may request information from the Board regarding the calculation of the amount deducted. Within three days after receipt of the requested information, the owner **or trainer** may appeal to the Board and submit written documentation of an error in the calculation of the gross overnight purses **or other assessment**. The Board, which may act through its Director or other designated staff, shall review the written submissions and determine if the calculation was in error and notify the owner **or trainer** of its decision.

13:73-6.2 Hearing

Within 10 days after receipt of the Board’s decision, the owner **or trainer** may request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., **and 52:14F-1 et seq.**, and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, and seek reimbursement for any assessment paid in error.

13:73-6.3 No stay pending appeal

All assessments pursuant to this chapter shall be paid when due. No owner **or trainer** shall be granted a stay of the payment of any assessment.

Submit comments by February 2, 2018, to:

Kate Tasch, Administrative Practice Officer
Regulatory and Legislative Affairs
Motor Vehicle Commission
225 East State Street
PO Box 160
Trenton, NJ 08666-0160
or via e-mail to: rulecomments@mvc.nj.gov

Summary

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

The Motor Vehicle Commission (Commission) proposes to readopt with amendments the provisions of N.J.A.C. 13:19, Compliance and Safety, specifically, 13:19-1 through 13:19-9 and 11, in accordance with N.J.S.A. 52:14B-5.1. These rules were scheduled to expire on November 1, 2017, pursuant to N.J.S.A. 52:14B-5.1. As the Commission submitted this notice of proposal to the Office of Administrative Law prior to that date, the expiration date was extended 180 days to April 30, 2018, pursuant to N.J.S.A. 52:14B-5.1.c(2). On August 4, 2017, Governor Chris Christie, pursuant to his authority under P.L. 2011, c. 45, Section 10(d)(1), waived the seven-year sunset provision of P.L. 2011, c. 45, Section 10(b) for Subchapters 10, 12, and 13 of N.J.A.C. 13:19, and extended the expiration date for those subchapters until such time as all bonds secured by the Regulatory Surcharges have been retired, which retirement has not yet occurred. See 49 N.J.R. 2967(a).

The rules contained in N.J.A.C. 13:19 implement various provisions of the Motor Vehicle and Traffic Laws, N.J.S.A. 39:1-1 et seq., including those subject to this readoption with amendments pertaining to driver qualification, administrative hearing procedures, cardiovascular disorders, convulsive seizures, installation and use of ignition interlock devices, reciprocity, out-of-State motor vehicle convictions, and driver license suspension. The Commission has reviewed N.J.A.C. 13:19 in accordance with Executive Order No. 66 (1978) and the Administrative Procedure Act, N.J.S.A. 52:14B-5.1, and has determined that the rules are “necessary, adequate, reasonable, efficient, understandable and responsive to the purpose for which they were promulgated,” but has also determined to propose amendments to various rules contained in N.J.A.C. 13:19 for the reasons set forth below.

Subchapter 1 pertains to administrative hearings, and no changes are proposed thereto.

N.J.A.C. 13:19-1.1 provides that the provisions of the subchapter shall apply to administrative hearings in cases involving revocation, suspension, or refusal to renew licenses, including cases involving imposition of insurance surcharges by the Commission pursuant to N.J.S.A. 17:29A-35. However, the provisions of N.J.A.C. 13:19-1 do not apply to hearings in fatal accident cases in which the Commission has initiated administrative suspension action against a licensee pursuant to subsection b, c, or e of N.J.S.A. 39:5-30; requests for hearings and the scheduling and conduct of same in such cases are governed by the provisions of subsection b or e of N.J.S.A. 39:5-30.

N.J.A.C. 13:19-1.2 affords a licensee, or his or her attorney, a period of 25 days from the date of notice of proposed Commission action against such licensee in which to make a written hearing request to the Commission. N.J.A.C. 13:19-1.2 also provides that requests for a hearing must specify all disputed material facts that the licensee, or his or her attorney, intends to raise at such hearing. Additionally, requests for a hearing must set forth all legal issues that the licensee, or his or her attorney, intends to raise, and must present all arguments on those issues that the licensee wishes the Commission to consider.

N.J.A.C. 13:19-1.2 provides that when a hearing request fails to set forth any disputed material fact and fails to set forth any legal issue or any argument on an issue, the request for a hearing shall be denied. The Commission shall notify the licensee of this denial and the grounds thereof, and shall notify the licensee that the proposed action shall become effective on such date as the Commission shall specify. The rule further provides that such notice of denial of a hearing request shall be

TRANSPORTATION

(a)

MOTOR VEHICLE COMMISSION

Compliance and Safety

Proposed Readoption with Amendments: N.J.A.C. 13:19-1 through 9 and 11

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

Authority: N.J.S.A. 17:29A-35, 39:2-3, 39:2A-28, 39:3-10, 39:3-10.4, 39:3-11, 39:3-15, 39:3-15.1, 39:3-16, 39:4-50, 39:4-50.16 et seq., 39:5-30, 39:5D-4, and 39:5F-1 et seq.

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

Proposal Number: PRN 2017-270.

deemed to constitute the final decision of the Commission in such matter.

N.J.A.C. 13:19-1.2 also provides that when a hearing request sets forth disputed material facts that the licensee, or his or her attorney, intends to raise at such hearing, the Chief Administrator shall require the licensee to attend a prehearing conference conducted by designated Commission employees.

N.J.A.C. 13:19-1.2 further provides that when there are no disputed material facts and when a request for a hearing sets forth legal issues and presents arguments on those issues, the Chief Administrator may either consider those legal issues and arguments on the basis of the written record and render a written determination, which shall constitute the final agency decision in the matter; or may require the licensee to attend a prehearing conference conducted by designated employees of the Commission; or may transmit the matter directly to the Office of Administrative Law for a hearing pursuant to N.J.A.C. 1:1.

N.J.A.C. 13:19-1.3 provides that the Commission shall notify the licensee of the date, time, and place of a prehearing conference scheduled pursuant to N.J.A.C. 13:19-1.

N.J.A.C. 13:19-1.4 is reserved.

N.J.A.C. 13:19-1.5 governs adjournments and failure to appear.

N.J.A.C. 13:19-1.6 concerns representation by counsel.

N.J.A.C. 13:19-1.7 provides for the conduct of prehearing conferences by driver improvement analysts.

N.J.A.C. 13:19-1.8 indicates that the purpose of the prehearing conference is to clarify disputed material facts and legal issues raised in the hearing request; to review the evidence upon which the licensee bases his or her claim; to ascertain the discovery needs of the licensee; to supply the licensee with any discovery to which the licensee may be entitled under the Uniform Administrative Procedure Rules; and to attempt to resolve the administrative action to be taken. N.J.A.C. 13:19-1.8 also provides that a Commission driver improvement analyst shall conduct a prehearing conference with a licensee who has been scheduled for such a conference pursuant to N.J.A.C. 13:19-1. N.J.A.C. 13:19-1.8 further provides that when the Commission and a licensee cannot reach a resolution of the proposed administrative action at the prehearing conference, the matter shall be transmitted to the Office of Administrative Law for a hearing pursuant to N.J.A.C. 1:1, unless there are no disputed material facts and no legal issues or argument on those issues raised at the conference. The rule further provides that in the event there is no resolution of the proposed administrative action at the prehearing conference and there are no disputed material facts and no legal issues or argument on those issues raised at the conference, the Commission shall notify the licensee that the matter shall not be transmitted to the Office of Administrative Law and the grounds thereof and shall notify the licensee that the proposed action shall become effective on such date as the Commission shall specify. Such notice shall constitute the final agency decision in the matter.

N.J.A.C. 13:19-1.9 through 1.12 are reserved.

N.J.A.C. 13:19-1.13(a) provides that the Commission shall not take administrative action against a person unless it has first afforded the person an opportunity to be heard in conformity with N.J.A.C. 13:19-1, except as set forth in subsections (b), (c), and (d) of the rule. Subsection (b) of the rule provides that when the administrative action proposed by the Commission against any person is one wherein the Commission has authority to act without first providing an opportunity to be heard, such action shall be valid, but the Commission shall promptly afford the person an opportunity to be heard in conformity with N.J.A.C. 13:19-1. Subsection (c) of the rule provides that a hearing shall not be provided when the action taken by the Commission is required by any law that prescribes a suspension or revocation of a license or a privilege and that requires no exercise of discretion on the part of the Commission. A hearing shall not be provided when a license or privilege is suspended or revoked by order of a court of competent jurisdiction. Subsection (d) of the rule provides that when a license is restored with the understanding that any subsequent moving violation will be cause for a summary suspension, the issue of any hearing provided with respect to a proposed suspension for such subsequent moving violation will be limited to whether or not the licensee has been convicted of a subsequent moving

violation and ascertaining whether the licensee received notice that the license had been restored with that understanding.

Subchapters 2 and 3 are reserved.

Subchapter 4 pertains to cardiovascular disorders.

N.J.A.C. 13:19-4.1 provides for the appointment of a Cardiovascular Committee (Committee) of specialists to advise the Commission concerning the physical qualifications of drivers.

N.J.A.C. 13:19-4.2 provides that the Chief Administrator, in determining the driver qualification of a person affected by a cardiovascular disorder, may require the person to provide a statement of his or her medical history and a statement from his or her physician pertaining to diagnosis, treatments, and prognosis.

N.J.A.C. 13:19-4.3 indicates that the Chief Administrator may refer cases to the Committee for review and recommendation relating to driver qualification. If the Committee deems it advisable, the applicant or licensed driver may be required to be examined by an internal medicine specialist or a cardiologist.

N.J.A.C. 13:19-4.4 indicates that the Committee members will report their findings and recommendations to the Chief Administrator who will determine whether or not to issue a driver license or whether or not to allow an existing licensee to retain his or her driving privileges.

N.J.A.C. 13:19-4.5 addresses consideration of restoration of driving privileges.

N.J.A.C. 13:19-4.6 provides that when a person applies for restoration of his or her driving privileges, the case may be referred to the Committee when the Chief Administrator determines that it is necessary.

N.J.A.C. 13:19-4.7 provides that restoration of driving privileges may be conditioned upon the driver's written agreement to submit interval medical reports to the Chief Administrator in the format and at the intervals set forth therein.

N.J.A.C. 13:19-4.8 provides that as a condition prior to issuance, retention, or restoration of driving privileges, the Chief Administrator may require a driver to be given a driving test and examination.

Subchapter 5 pertains to convulsive seizures.

N.J.A.C. 13:19-5.1 requires a person who has been subject to recurrent convulsive seizures, recurrent periods of impaired consciousness, or impairment or loss of motor coordination due to various conditions, including, but not limited to, epilepsy, in any of its forms, to establish that he or she has been free of such condition for six months, with or without medication, as a prerequisite to the issuance of a learner's permit, driver's license, driver's license renewal, or the retention of a driver's license.

N.J.A.C. 13:19-5.2 provides that the Chief Administrator, after notice and hearing, may suspend the driving privilege of, or deny the issuance of a learner's permit or driver's license to a person who is affected by recurrent convulsive seizures, recurrent periods of impaired consciousness, or impairment or loss of motor coordination. When the Chief Administrator determines it to be in the public interest, a suspension may be imposed pending administrative hearing.

N.J.A.C. 13:19-5.3 provides that the Chief Administrator, in determining the driver qualification of a person affected by recurrent convulsive seizures, recurrent periods of impaired consciousness, or impairment or loss of motor coordination, may require the person to provide a statement of his or her medical history, a statement from the treating physician pertaining to diagnosis, treatment, and prognosis and any other information deemed necessary.

N.J.A.C. 13:19-5.4 provides that the Chief Administrator shall appoint a Neurological Disorder Committee upon consultation with and advice of the Medical Society of the State of New Jersey.

N.J.A.C. 13:19-5.5 provides that the Chief Administrator may refer individual cases to the Neurological Disorder Committee for review, advice, and recommendation relating to driver qualification.

N.J.A.C. 13:19-5.6 requires each member of the Neurological Disorder Committee to separately report the member's findings and recommendations to the Chief Administrator.

N.J.A.C. 13:19-5.7 provides that the Chief Administrator upon consultation with members of the Neurological Disorder Committee, may grant a learner's permit or initial driver's license or may permit a person to retain his or her driver's license although such person may have suffered a seizure, period of impaired consciousness, or impairment

or loss of motor coordination within a one-year period when the specific characteristics of a person's disorder do not adversely impact on the person's ability to safely operate a motor vehicle.

N.J.A.C. 13:19-5.8 sets forth restoration qualifications when the Chief Administrator has denied an applicant a driver's license or has suspended a license pursuant to N.J.A.C. 13:19-5.

N.J.A.C. 13:19-5.9 indicates that a condition to issuance or restoration of driving privileges is the individual's agreement to submit to interval reports containing the medical history and physician's statement. Interval reports must be submitted every six months for a period of two years from the date of license issuance or restoration. Thereafter, yearly reports must be submitted. The Chief Administrator, in his or her discretion, may waive or alter the interval report requirement.

N.J.A.C. 13:19-5.10 provides that a driver reexamination may be required as a condition to the issuance, retention, or restoration of driving privileges.

Subchapter 6, Installation and Use of Ignition Interlock Devices, establishes procedures and requirements for the certification of breath alcohol ignition interlock devices (BAIIDs).

N.J.A.C. 13:19-6.1 articulates the purpose and scope of the subchapter.

N.J.A.C. 13:19-6.2 defines the words and terms used in the subchapter.

N.J.A.C. 13:19-6.3 adopts and incorporates by reference the National Highway Traffic Safety Administration's (NHTSA) Model Specifications for BAIIDs.

N.J.A.C. 13:19-6.4 sets forth standards governing the use and installation of BAIIDs for the purpose of satisfying driving while intoxicated (DWI) sentencing requirements. The rule is proposed to be amended to provide that a licensee subject to court-ordered BAIID installation must install such a device in the motor vehicle principally operated by the licensee, and that the licensee shall drive no vehicle other than one in which an interlock device has been installed pursuant to the order. The amendment is proposed to conform the rules with the applicable statute, N.J.S.A. 39:4-50.17, which requires that where a BAIID is ordered, it must be installed in the motor vehicle principally operated by the licensee subject to the requirement, and the licensee may only operate a vehicle in which an interlock device has been installed in accordance with the court order.

N.J.A.C. 13:19-6.5 establishes the specifications for BAIIDs used for satisfaction of DWI sentencing requirements. BAIIDs are required to meet the NHTSA Model Specifications, to have an alcohol setpoint of 0.05 percent breath alcohol concentration, to have affixed thereto a label warning against tampering liability, and to have a maximum required service interval of 67 days.

N.J.A.C. 13:19-6.6 establishes the application procedure for the Chief Administrator's certification of BAIIDs.

N.J.A.C. 13:19-6.7 provides that the Chief Administrator shall certify a BAIID for use in meeting DWI sentencing requirements provided the BAIID meets the requirements of N.J.A.C. 13:19-6.5, the manufacturer has filed a completed application containing the certifications and information required in N.J.A.C. 13:19-6.6, and the manufacturer's service center complies with the requirements of N.J.A.C. 13:19-6.11. The Chief Administrator is empowered to deny certification of a BAIID model if certification or approval has been denied, suspended, or revoked in another state. The Chief Administrator provides written notice of the grant or denial of certification, and in case of denial, the reason therefor. After BAIID certification, manufacturers are required to file a surety bond in the amount of \$10,000 with the Commission.

N.J.A.C. 13:19-6.8 requires manufacturers to obtain liability insurance in specified amounts and to file proof thereof with the Commission.

N.J.A.C. 13:19-6.9 requires manufacturers of certified BAIIDs to provide annually to the Chief Administrator a certified statement that its manufacture of the certified BAIID has not been modified or altered in any way, and a summary of all complaints received and corrective action taken with respect to the BAIID. In addition, manufacturers are required to notify the Commission within 30 days of their receipt of notice of

another state's suspension, revocation, or denial of certification of the model certified by the Commission.

N.J.A.C. 13:19-6.10 sets forth the ground upon which the Chief Administrator shall revoke BAIID certification and establishes the effective date of the revocation. In addition, the rule requires BAIIDs installed under the subchapter to be removed from the program participants' vehicles, and the installation of new BAIIDs that comply with the subchapter, at the manufacturer's expense, when the Chief Administrator revokes certification of the BAIID.

N.J.A.C. 13:19-6.11 establishes requirements for BAIID service centers that address the physical layout, operation, and staffing of the facilities. The requirements also address the matters of installation security, tampering memorialization, access to BAIID installation and maintenance without regard to economic status, training, and responsible staffing. The rule is proposed to be amended to reflect that BAIID service centers may display either their current sign stating "New Jersey Approved Ignition Interlock Service Center," or a paper certificate issued by the Commission with the same information.

N.J.A.C. 13:19-6.12 sets forth specifications regarding the annual registration and review of certification of BAIIDs by the manufacturers thereof.

N.J.A.C. 13:19-6.13 is reserved.

N.J.A.C. 13:19-6.14 provides that indigent persons are eligible for a reduced installation charge and monthly leasing fees during the period the person is indigent, which reduction is 50 percent, and sets forth requirements regarding proofs to be presented by the applicant.

N.J.A.C. 13:19-6.15 sets forth how to obtain a list of certified BAIIDs and a list of service center locations.

Subchapter 7, Reciprocity Agreement between Connecticut and New Jersey, contains the reciprocity agreement between the two states concerning motor vehicle violations, bail forfeitures, failures to appear, revocations, or suspensions, and speeding by drivers licensed in the respective states.

Subchapter 8, Reciprocity Agreement between Province of Alberta and State of New Jersey, contains the reciprocity agreement concerning motor vehicles registered in the respective jurisdictions.

Subchapter 9, Designation of State Official to Be Notified by Drivers of Commercial Motor Vehicles Concerning Out-of-State Motor Vehicle Convictions, designates the Motor Vehicle Commission's Director, Compliance and Safety, as the State official to be notified by drivers of commercial motor vehicles of out-of-State motor vehicle convictions pursuant to the Federal Commercial Motor Vehicle Safety Act of 1986, and also indicates the address to which such notification is to be sent.

Subchapter 11, Suspension for Out-of-State Convictions; Administrative Determinations and Bail Forfeitures for Driving While Under the Influence of Intoxicating Liquor or Drugs; Refusal to Submit to Chemical Test, provides for the uniform application of New Jersey law in matters relating to out-of-State convictions for alcohol-related violations. New Jersey licensed drivers are subject to the terms of suspension and alcohol education or rehabilitation program requirements set forth at N.J.S.A. 39:4-50 and 50.4a for alcohol-related violations incurred out-of-State.

Social Impact

The readoption of N.J.A.C. 13:19 will have a beneficial social impact in that the rules proposed for readoption with amendments contained therein promote highway safety by implementing various provisions of the motor vehicle and traffic laws pertaining to driver qualification, driver rehabilitation, and driver disqualification for violation of motor vehicle laws. The readoption of these subchapters also promotes the social welfare in that they set forth administrative hearing procedures that comport with due process requirements of notice and hearing before final administrative action is taken by the Commission in license suspension and insurance surcharge matters.

Persons may be disqualified from licensure because their medical condition (that is, cardiovascular or convulsive seizure disorder) creates an unreasonable risk to the safety of other motorists. Persons who have repeatedly violated motor vehicle and traffic laws or have incurred alcohol-related violations may have their driving privileges suspended because they also present a disproportionate risk to the safety of other

motorists. Imposition of driving privilege suspensions fosters highway safety in that said suspensions are intended to deter further violations upon license restoration. Driver improvement programs for motor vehicle violators and alcohol education or rehabilitation program requirements for persons committing alcohol-related violations also foster highway safety in that said programs are designed and intended to modify driver behavior. Installation of ignition interlock devices on motor vehicles principally operated by DWI offenders as a condition of driver license restoration promotes highway safety by preventing motor vehicles from being driven by persons whose breath alcohol concentrations effectively prohibit a vehicle's engine from being started.

The rules proposed for readoption with amendments will also have a positive social impact. The amendments to the rules benefit the public by clarifying those vehicles in which a BAIID must be installed pursuant to a court order and State law, N.J.S.A. 39:4-50.17, and by offering BAIID service centers an upgraded option to displaying paper certificate to the public confirming that the service center is approved by the State.

Economic Impact

The economic impact on the State in funding the Commission's driver control services is partially offset by the driver improvement program and other fees that are collected by the Commission pursuant to N.J.S.A. 39:5-30.4 and 39:2A-36.

There is an adverse economic impact on drivers who commit motor vehicle violations and who, as a result, incur driver improvement program fees; or who, as a result, incur a driver license suspension necessitating a payment of a license restoration fee or alcohol program fee as a prerequisite to license restoration; or who, as a result, are required to install an ignition interlock device as a condition of license restoration.

There is an economic impact on the Commission in funding the Commission's Automobile Insurance Surcharge and Collection Unit, which is charged with the administration of the supplemental surcharge rules. A portion of the administrative costs incurred by the Commission's Automobile Insurance Surcharge and Collection Unit are funded by offset from the State General Fund.

Federal Standards Analysis

In compliance with Executive Order No. 27 (1994), Requirement for Statement Concerning Federal Standards in State Agency Rulemaking, notice is hereby given that the rules proposed for readoption with amendments pertaining to the installation of an ignition interlock device meet but do not exceed Federal standards.

Specifically, N.J.A.C. 13:19-6.3 adopts and incorporates by reference the NHTSA Model Specifications for the use of BAIIDS, thereby meeting but not exceeding the Federal standards.

A Federal standards analysis is not required for the remainder of the rules proposed for readoption with amendments or the other proposed amendments because the subject matter of those rules is governed by State law and is not subject to any Federal requirements or standards.

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.

Agriculture Industry Impact

The rules proposed for readoption with amendments will have no impact on the agriculture industry in the State.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments impose reporting, recordkeeping, and compliance requirements on ignition interlock device manufacturers, some of which may be small businesses within the meaning of the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Manufacturers that seek to participate in the certified ignition interlock device program are required to comply with the application and post-certification reporting, recordkeeping, and compliance requirements imposed by N.J.A.C. 13:19-6. To obtain certification, the rules proposed for readoption with amendments require manufacturers to ensure that the device proposed for certification complies with the NHTSA model specifications, has the designated alcohol setpoint, bears the prescribed

warning label, has a required service interval of no more than 67 days, and does not impede the safe operation of the vehicle in which it is installed. To ensure compliance with NHTSA model specifications, the rules proposed for readoption with amendments require manufacturers to submit with their applications the written instructions, technical specifications, and proof of either laboratory testing or another state's certification of the device as meeting the NHTSA Model Specifications. The rules require that manufacturers provide indigent persons with device installation and leasing at half the regular price.

The rules also require a manufacturer to carry liability insurance in the specified amount and to provide the Commission with a certificate of insurance upon application. Upon the Chief Administrator's certification of a manufacturer's device, the manufacturer is required to post a bond in a specified amount.

The rules also require a manufacturer to submit with its application a list of states that have approved, revoked, suspended, and denied certification of the device in a program that requires compliance with the NHTSA Model Specifications, and in the case of a revocation, suspension, or denial, the reasons and contact information of the state official responsible therefor. Manufacturers have a continuing obligation upon certification to notify the Commission in case of a subsequent revocation, suspension, or denial of certification or approval of a device certified by the Chief Administrator.

The rules also require manufacturers to maintain a network of device service centers. The manufacturer must submit with its application for certification a list of the service centers in the network, information relating to the nature of the proprietorship thereof, and a list of the employees that will provide services related to BAIIDS at the centers. The employees of service centers have to be free from records of certain criminal offenses that could have the propensity to impair the integrity of, and public confidence in the program. Manufacturers must provide employees with appropriate training and submit the training documentation with their applications.

The rules require the configuration of service centers to provide a secure service area, a secure record storage area, a waiting area for customers and a training area in which to provide required hands-on training to device users. Service centers must display certain signage and must be equipped with appropriate tools, testing equipment, and service manuals. The proposed readoption with amendment upgrades the signage options available to a BAIID service center. Service centers must maintain, in a secure area, all material and supplies relating to BAIID servicing. Service centers must keep as confidential all of the program participants' personal and medical information.

Service centers are required to operate during normal business hours, to maintain a 24-hour emergency response telephone number and to provide prompt response to emergency service requests. Service centers are required to complete installations within seven days of a request and to provide device users in the DWI sentencing program with a certificate of installation.

Service centers are required to provide device users in the sentencing program with hands-on training, care and maintenance instructions, emergency procedures, and the emergency response telephone number. In conducting required service, service centers are required to check for proper device functioning and operation and for evidence of tampering and to document in written and photographic form indicia of tampering and circumvention efforts and attempts.

Manufacturers are required to report to the Commission annually that the manufacture of the device has not changed and to provide a summary of reported problems with the device, categorized by the nature of the complaint. Manufacturers and their service centers are required to maintain service records for each offender for a specified time period after device removal.

Failure of manufacturers to remain in compliance with the application and post-certification requirements or inaccurate misrepresentation of the device, provides grounds for the Chief Administrator's decertification of the device. Manufacturers whose devices the Chief Administrator decertifies are required to pay for the removal of devices installed to satisfy sentencing program requirements and for the cost of installation of certified devices.

The rules proposed for readoption with amendments do not require small businesses to engage additional professional services for compliance therewith. The records are of a kind that are maintained in the ordinary course of business; therefore, the rules proposed for readoption with amendments do not impose additional reporting or recordkeeping burdens on small businesses, nor do they necessitate initial capital and annual expenditures for reporting or recordkeeping compliance by small businesses, other than as discussed above.

The Commission rules are intended to ensure that persons sentenced to use an ignition interlock device have a reliable resource to aid them in complying with their sentences, that indigent persons are not precluded by cost from participating in the program and that the devices used are in compliance with the NHTSA Model Specifications and are consistent in their design and operability. The DWI sentencing program has as its goal the deterrence of DWI recidivism, thereby promoting the health and safety of the public. The Commission has determined that the uniform application of rules to all manufacturers, regardless of business size, is necessary to ensure that the conduct of manufacturers meets these reliability, safety, and fairness goals. Therefore, the Commission has provided no distinction in the rules based on business size.

Housing Affordability Impact Analysis

Housing affordability will not be impacted by the rules proposed for readoption with amendments and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing. The rules are concerned with driver management and control, including the administrative hearing process for taking action against errant drivers, and the use and installation of BAIIDs where ordered by courts.

Smart Growth Development Impact Analysis

The rules proposed for readoption with amendments will have no impact on smart growth development because they do not impose any requirements on housing units, affordable housing, or new construction within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The rules are concerned with driver management and control, including the administrative hearing process for taking action against errant drivers, and the use and installation of BAIIDs where ordered by courts.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:19-1 through 9 and 11.

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

SUBCHAPTER 6. INSTALLATION AND USE OF IGNITION INTERLOCK DEVICES

13:19-6.4 Requirements for use of BAIIDS installed to meet sentencing requirements

(a) In order to have a driver license restored, an offender required by the court to have a BAIID installed as part of a sentence imposed under N.J.S.A. 39:4-50 and 39:4-50.17 shall have installed, in [every motor vehicle the offender owns, leases, or regularly operates] **the motor vehicle principally operated by the offender during and following the expiration of the period of license suspension imposed**, a BAIID that has been certified by the Chief Administrator under N.J.A.C. 13:19-6.7, **and for the duration of the court’s order, an offender shall drive no vehicle other than one in which an interlock device has been installed pursuant to the order.**

(b)-(d) (No change.)

13:19-6.11 Service center requirements

(a) (No change.)

(b) Each service center shall:

1.-2. (No change.)

3. Display in a place visible to BAIID customers a sign **or certificate** provided by the Commission that states “New Jersey Approved Ignition Interlock Service Center”;

4.-17. (No change.)

(c) (No change.)

(a)

**MOTOR VEHICLE COMMISSION
Licensing Service**

Proposed Amendments: N.J.A.C. 13:21-7.3, 8.7, 8.8, and 8.15

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

Authority: N.J.S.A. 39:2A-28 and 39:3-10.

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

Proposal Number: PRN 2017-271.

Submit comments by February 2, 2018, to:

Kate Tasch, APO
Regulatory and Legislative Affairs
Motor Vehicle Commission
225 East State Street
PO Box 160
Trenton, NJ 08666-0160
or via e-mail to rulecomments@mvc.nj.gov.

The agency proposal follows:

Summary

The public comment period for the notice of proposal will be 60 days, as 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) proposes amendments to the provisions of N.J.A.C. 13:21-7.3, as well as N.J.A.C. 13:21-8.7, 8.8, and 8.15. N.J.A.C. 13:21-7.3 specifies provisions regarding road test appointment requirements. N.J.A.C. 13:21-8.7 specifies provisions for taking an oral law-knowledge test in English or a foreign language. N.J.A.C. 13:21-8.8 specifies provisions regarding special examinations for those who are deaf or hard of hearing. N.J.A.C. 13:21-8.15 specifies prohibitions regarding accompanying a driver to the testing area.

N.J.A.C. 13:21-7.3 is proposed for amendment to delete the provision that an oral law-knowledge test may be administered by the Commission to a deaf or hard of hearing applicant through an interpreter, as this language is included in N.J.A.C. 13:21-8.8.

N.J.A.C. 13:21-8.7 is proposed for amendment to delete the use of a full-time college professor or a person from the clergy as interpreters because these sources of interpreters are not always certified interpreters approved by the New Jersey Administrative Office of the Courts’ (Language Service Section) Registry of Interpreters and Agencies. The Commission also proposes to add new provisions regarding the securing of an interpreter and payment provisions for the interpreter’s services. Currently, the Commission only reimburses interpreters up to a certain amount, which amount the Commission has determined is insufficient to fully reimburse interpreters for their services.

N.J.A.C. 13:21-8.8 is proposed for amendment to delete and replace the term “hearing-impaired” and hourly rate of payment for an interpreter. The Commission also proposes to add provisions regarding the securing of an interpreter and payment procedure for the interpreter’s services.

N.J.A.C. 13:21-8.15 is proposed for amendment to include a new subsection (c) that allows an approved interpreter to provide instructions immediately before and immediately after the road test for a deaf or hard of hearing or limited English proficient applicant. N.J.A.C. 13:21-8.15(c), which pertains to unauthorized persons in the vehicle during the road test, is proposed for recodification as subsection (d).

Social Impact

The proposed amendments will have a positive social impact on the public because the proposed amendments will provide for better access