

## TRANSPORTATION

### (a)

#### MOTOR VEHICLE COMMISSION

#### Inspection of School Bus Driver Records

#### Proposed Amendments: N.J.A.C. 13:20-30.14 and 13:21-23.15

Authorized By: Motor Vehicle Commission, B. Sue Fulton, Chair and Chief Administrator.

Authority: N.J.S.A. 39:3-10.1.

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

Proposal Number: PRN 2019-114.

Submit written comments by October 4, 2019, to:

Kate Tasch, Director  
Legal and Regulatory Affairs  
Motor Vehicle Commission  
225 East State Street  
PO Box 162  
Trenton, NJ 08666-0162  
or via email to: [rulecomments@mvc.nj.gov](mailto:rulecomments@mvc.nj.gov).

The agency proposal follows:

#### Summary

The Motor Vehicle Commission (Commission) proposes amendments to N.J.A.C. 13:20-30.14 and 13:21-23.15. Recent amendments to N.J.S.A. 39:3-10.1, which were effective on December 17, 2018, require a holder of a school bus endorsement who is age 70 or older to annually obtain and furnish to his or her employer a certified Medical Doctor or Osteopathic Physician Evaluation, attesting to his or her continued physical fitness, and a holder of a school bus endorsement who is 75 or older to obtain and furnish to his or her employer the same evaluation every six months. The proposed amendments clarify and set forth the details of the new requirements, including when the evaluations must be obtained and furnished to employers and the penalty for a driver or operator, as each is defined in N.J.A.C. 13:20-30.2, who fails to comply with the requirements. The amendments further clarify that the new requirements are in addition to, and cannot be substituted with, the Federal Medical Examiner's Certification required by 49 CFR 391.43 and N.J.A.C. 13:21-23.28(l).

A Federal Medical Examiner's Certificate, which is required to operate any commercial vehicle, including a school bus, can be valid for up to two years, in accordance with Federal regulations, but in New Jersey if a holder of a school bus endorsement is age 70 to 74, that holder must also obtain a certified New Jersey Medical Doctor or Osteopathic Physician Evaluation annually. Likewise, if a New Jersey holder of a school bus endorsement is age 75 or older, that holder must, in addition to maintaining a current Federal Medical Examiner's Certificate, also obtain a certified New Jersey Medical Doctor or Osteopathic Physician Evaluation every six months. The Federal and State medical evaluations are similar, in that they both test to the same physical standards for continued physical fitness to operate a school bus. However, the proposed amendments affect the frequency of medical evaluations, and in accordance with recent amendments to N.J.S.A. 39:3-10.1, mandate annual evaluations for holders of school bus endorsements who are age 70 or older and evaluations every six months for those holders age 75 or older. The chart below lists the evaluation requirements and frequency for holders of school bus endorsements based on age.

N.J.A.C. 13:20-30.14(f) is proposed for amendment to reference the penalty for operators who fail to maintain driver qualification employment records.

N.J.A.C. 13:20-30.14(f)2 is proposed for amendment to reference the Federal regulation and the State rule that require a driver to obtain a Medical Examiner's Certificate completed by a licensed physician attesting to the driver's physical qualification to drive a school bus.

Proposed new N.J.A.C. 13:20-30.14(f)3 and 4 set forth that a licensed medical doctor or osteopathic physician must perform and certify a

Medical Doctor or Osteopathic Physician Evaluation, in the format prescribed by the Chief Administrator, annually for drivers age 70 to 74, and every six months for drivers age 75 and older.

Proposed new N.J.A.C. 13:20-30.14(f)3 and 4 set forth that an operator shall maintain the annual evaluations for holders of school bus endorsements age 70 or older and evaluations every six months for holders of school bus endorsements age 75 or older, for three years from the date of the execution of the evaluation.

N.J.A.C. 13:21-23.15(b) and (c) are proposed for deletion, as they have not applied since September 30, 2005.

Proposed new N.J.A.C. 13:21-23.15(b) requires that a holder of a school bus endorsement must submit his or her certified Medical Doctor or Osteopathic Physician Evaluation to his or her employer annually if he or she is age 70 to 74, and every six months if he or she is age 75 or older.

A school bus endorsement holder who is at least age 70, but not yet age 75, and who is employed as a school bus driver must comply with the medical evaluation requirements within 30 days after the effective date of the proposed amendment, and annually thereafter from the initial date of compliance. When a school bus endorsement holder within this age group has already complied with the medical evaluation requirements prior to the effective date of the proposed amendment, he or she must continue to comply annually thereafter based on his or her initial date of compliance. When a school bus endorsement holder is employed as a school bus driver as of the effective date of the proposed amendment, and turns age 70 after the effective date, that driver must comply with the medical evaluation requirements within 30 days of his or her birthday, and annually thereafter from the initial date of compliance, through his or her 74th birthday.

When a school bus endorsement holder is at least age 70, but not yet 75, and is not employed as a school bus driver as of the effective date of the proposed amendment, that holder must comply with the medical evaluation requirements within 30 days of starting his or her employment as a school bus driver, and annually thereafter from the initial date of compliance.

The proposed amendment for school bus endorsement holders age 75 or older are similar. A school bus endorsement holder who is age 75 or older, who is employed as a school bus driver as of the effective date of the proposed amendment, must comply with the medical evaluation requirements within 30 days after the effective date of the proposed amendment, and every six months thereafter from the initial date of compliance. A school bus endorsement holder in this age group that has already complied with the medical evaluation requirements prior to the effective date must comply every six months thereafter based on the initial date of compliance. A school bus endorsement holder who is employed as a school bus driver as of the effective date of the proposed amendment, who turns age 75 after the effective date of the proposed amendment, must comply with the medical evaluation requirements within 30 days of his or her birthday, and every six months thereafter from the initial date of compliance.

Additionally, a school bus endorsement holder who is age 75 or older, and who is not employed as a school bus driver as of the effective date of the proposed amendment, must comply with the medical evaluation requirements within 30 days of starting his or her employment as a school bus driver, and every six months thereafter from the initial date of compliance.

Proposed new N.J.A.C. 13:21-23.15(b) also states that holders of a school bus endorsement must obtain the evaluations under the subsection in addition to, and may not be substituted with, the Medical Examiner's Certificate required by 49 CFR 391.43 and N.J.A.C. 13:21-23.28(l).

Proposed new N.J.A.C. 13:21-23.15(b) also provides that if a holder of a school bus endorsement is age 70 or older and does not comply with the requirements to obtain and submit evaluations, the Commission will suspend that driver's school bus endorsement.

New Jersey's regulatory requirements for Commercial Driver License (CDL) drivers, including those for obtaining a school bus endorsement are found at N.J.A.C. 13:21-23.1 through 23.29 and N.J.A.C. 13:21-14.1 through 14.5. The Federal regulations for CDL holders require CDL holders to obtain a medical exam and current Medical Examiner's Certificate from a licensed medical examiner. The Federally required exam is valid for up to 24 months; however, the medical examiner may issue a Medical Examiner's Certificate for less than 24 months when it is

desirable to monitor a condition, such as high blood pressure. This determination is made by the medical examiner on a case-by-case basis. If the medical examiner finds that the person examined is physically qualified to drive a commercial motor vehicle (CMV), the medical examiner will furnish one copy of the results to the person who was examined and complete and issue a Medical Examiner's Certificate.

The public comment period for this notice of proposal will be 60 days. This notice of proposal is, therefore, excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

#### Social Impact

The proposed amendments enhance the safety of the public by providing for annual or every six months medical evaluations for holders of school bus endorsements age 70 to 74 or 75 and older, respectively. The medical evaluations are designed to ensure that each driver is physically examined by a medical professional, who certifies to the continuing physical fitness of that individual. Each holder is then required to furnish the certified evaluation to their employer, who in turn must maintain the evaluation in the driver's driver qualification employment record.

The new examination requirement will ensure that drivers age 70 to 74 and 75 or older remain physically fit for the operation of school buses and the transportation of children in the State. This, in turn, will enhance the public's confidence that the children and all other residents of the State who ride on school buses are being transported safely to and from school, school events off premises, summer camps, and other locations and events.

The proposed amendments do not place any burden on the public, and to the contrary, they benefit the public by adding a new layer of checks and balances to ensure the physical fitness of school bus drivers and, in turn, the safety of school bus riders, children, who are often the most vulnerable of the State's residents.

#### Economic Impact

The proposed amendments will not have a direct economic impact on the general public and it is anticipated that there will be no economic impact on either the Commission or the operators of school bus companies. The economic impact on holders of school bus endorsements age 70 or older in obtaining and submitting their annual (ages 70-74) or every six months (age 75 and older) certified Medical Doctor or Osteopathic Physician Evaluation forms is offset by the enhanced safety to the motoring, cycling, and pedestrian population, as well as the public's safety.

#### Jobs Impact

The Commission does not anticipate that any jobs will be generated or lost as a result of the proposed amendments.

#### Federal Standards Analysis

The proposed amendments exceed the requirements of Federal regulations by requiring school bus drivers to obtain, and operators to maintain, medical evaluations for school bus drivers age 70 or older.

Federal requirements related to commercial driver licenses in general, and school bus endorsements in particular, are addressed in Federal regulations, but there is no requirement for school bus drivers age 70 or older to obtain and submit to their employers an additional medical evaluation. State law, at N.J.S.A. 39:3-10.1, mandates medical evaluations for school bus drivers age 70 or older, and that they be furnished to the driver's employer. The proposed amendments relate exclusively to the State law, and as such the Commission has determined that the proposed amendments are justified in order to ensure safety.

The Commission has determined that the economic impact on holders of school bus endorsements age 70 or older in obtaining and submitting their annual (ages 70-74) or every six months (age 75 and older) Medical Doctor or Osteopathic Physician Evaluation forms, is justified by the enhanced safety to the motoring, cycling, and pedestrian population, as well as the public's and passengers' safety.

None of the Federal physical qualification regulations at 49 CFR 391.41 through 391.49 address the medical certification of school bus drivers by age or contain an additional requirement for drivers 70 years of age or older. The proposed amendments implement State law, which imposes the requirement for a specific medical evaluation for drivers age

70 or older to be obtained and furnished to a school bus driver's employer before a school bus driver can continue to drive or begin to drive.

49 CFR 391.51, General requirements for driver qualification files, requires maintenance in a driver's file of the Federally required Medical Examiner's Certificate relating to the driver for the current year and it is to be maintained for three years. The proposed amendments impose the requirement for an employer to maintain the additional medical evaluation for drivers age 70 or older. The Commission has determined that there is no economic impact on operators, and that to the extent any costs are incurred by operators, the costs are justified in order to ensure safety.

#### Agriculture Industry Impact

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

#### Regulatory Flexibility Analysis

Some operators of school bus companies 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 fewer than 100 full-time employees. The cost of compliance with the proposed amendments will be administrative in nature; no professional services are required to comply. There are no new reporting requirements, and the recordkeeping requirements merely require the maintenance in a driver's driver qualification employment record of an additional annual or every six months Medical Doctor or Osteopathic Physician Evaluation for drivers age 70 or older who are holders of school bus endorsements. This additional information is essential information needed by the Commission and there is minimal, if any, adverse economic impact on operators that may be small businesses.

#### Housing Affordability Impact Analysis

The proposed amendments will have no impact on the affordability of housing and they will not evoke a change in the average costs associated with housing because the proposed amendments pertain to medical examination requirements for holders of school bus endorsements 70 years of age and older.

#### Smart Growth Development Impact Analysis

The proposed amendments will have no 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 proposed amendments pertain to medical examination requirements for holders of school bus endorsements 70 years of age and older.

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

The Commission has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

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

#### CHAPTER 20 ENFORCEMENT SERVICE

#### SUBCHAPTER 30. INSPECTION OF SCHOOL BUSES

13:20-30.14 Driver qualification; criminal history record information; driver qualification employment records

(a)-(e) (No change.)

(f) An operator shall maintain a driver qualification employment record for each driver employed by the operator. **Failure to maintain all required records shall subject an operator to the penalties set forth at N.J.A.C. 13:20-30.11.** A driver qualification employment record shall include the following:

1. (No change.)

2. A [medical examiner's certificate] **Medical Examiner's Certificate** of the driver's physical qualification to drive a school bus in the form of a satisfactory medical report, **which is compliant with the requirements**

set forth at 49 CFR 391.43 and N.J.A.C. 13:21-23.28(l) and is completed by a licensed physician;

3. In addition to the requirement in (f)2 above, for every holder of a school bus endorsement who is 70 to 74 years of age, an annual Medical Doctor or Osteopathic Physician Evaluation. A licensed medical doctor or osteopathic physician must perform an examination, and complete and certify a Medical Doctor or Osteopathic Physician Evaluation, in the format prescribed by the Chief Administrator, as evidence of the examination and the continuing physical fitness of the school bus endorsement holder pursuant to N.J.S.A. 39:3-10.1 and N.J.A.C. 13:21-23.15. An operator shall maintain the annual evaluation for three years after the date of execution of the evaluation;

4. In addition to the requirement in (f)2 above, for every holder of a school bus endorsement who is 75 years of age or older, a Medical Doctor or Osteopathic Physician Evaluation every six months. A licensed medical doctor or osteopathic physician must perform an examination, and complete and certify a Medical Doctor or Osteopathic Physician Evaluation, in the format prescribed by the Chief Administrator, as evidence of the examination and the continuing physical fitness of the driver pursuant to N.J.S.A. 39:3-10.1 and N.J.A.C. 13:21-23.15. An operator shall maintain each of the two evaluations required yearly for three years after the date of execution of the evaluation;

Recodify existing 3.-4. as 5.-6. (No change in text.)

CHAPTER 21  
LICENSING SERVICE

SUBCHAPTER 23. COMMERCIAL DRIVER LICENSING

13:21-23.15 Requirements for a school bus endorsement

(a) (No change.)

[(b) The driving skills test required in (a)3 above may be waived for an applicant who is currently licensed, has experience driving a school bus, has a good driving record, and meets the following conditions:

1. An applicant must certify that, during the two-year period immediately prior to applying for the school bus endorsement, the applicant:

i. Held a valid CDL with a passenger vehicle endorsement to operate a school bus representative of the group he or she will be driving;

ii. Has not had his or her driver's license or CDL suspended, revoked or cancelled or been disqualified from operating a CMV;

iii. Has not been convicted of any of the disqualifying offenses in 49 CFR § 383.51(b) while operating a CMV or of any offense in a noncommercial motor vehicle that would be disqualifying under 49 CFR § 383.51(b) if committed in a CMV;

iv. Has not had more than one conviction of any of the serious traffic violations defined in 49 CFR § 383.5 or N.J.A.C. 13:21-23.1, while operating any type motor vehicle;

v. Has not had any conviction for a violation of State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with any traffic accident;

vi. Has not been convicted of any motor vehicle traffic violation that resulted in an accident; and

vii. Has been regularly employed as a school bus driver, has operated a school bus representative of the group the applicant seeks to drive, and provides evidence of such employment.

(c) The provisions of (b) above shall not apply after September 30, 2005.]

(b) Every holder of a school bus endorsement who is 70 years of age or older must comply with the following requirements.

1. Every holder of a school bus endorsement who is aged 70 to 74 must obtain and submit to his or her employer annually, a certified Medical Doctor or Osteopathic Physician Evaluation, in the format prescribed by the Chief Administrator and completed by a licensed medical doctor or osteopathic physician, which evidences a medical examination and the continuing physical fitness of the school bus endorsement holder pursuant to N.J.S.A. 39:3-10.1.

i. A school bus endorsement holder who is at least age 70, but not yet 75 years of age, who is employed as a school bus driver as of (the effective date of this amendment), shall comply with (b)1 above by (30 days after the effective date of this amendment), and annually thereafter by the initial date of compliance.

(1) A school bus endorsement holder under this subparagraph that has already complied with (b)1 above prior to (the effective date of this amendment) shall comply annually thereafter from the initial date of compliance.

ii. A school bus endorsement holder who is employed as a school bus driver as of (the effective date of this amendment), who turns age 70 after (the effective date of this amendment), shall comply with (b)1 above within 30 days of his or her birthday, and annually thereafter from the initial date of compliance, through his or her 74th birthday.

iii. A school bus endorsement holder who is at least age 70, but not yet 75 years of age, who is not employed as a school bus driver as of (the effective date of this amendment), shall comply with (b)1 above within 30 days of starting his or her employment as a school bus driver, and annually thereafter from the initial date of compliance.

2. Every holder of a school bus endorsement who is age 75 or older must obtain and submit to his or her employer every six months, a certified Medical Doctor or Osteopathic Physician Evaluation, in the format prescribed by the Chief Administrator and completed by a licensed medical doctor or osteopathic physician, which evidences a medical examination and the continuing physical fitness of the school bus endorsement holder pursuant to N.J.S.A. 39:3-10.1.

i. A school bus endorsement holder who is age 75 or older, who is employed as a school bus driver as of (the effective date of this amendment), shall comply with (b)2 above by (30 days after the effective date of this amendment), and every six months thereafter from the initial date of compliance.

(1) A school bus endorsement holder under this subparagraph that has already complied with (b)2 above prior to (the effective date of this amendment), shall comply every six months thereafter from the initial date of compliance.

ii. A school bus endorsement holder who is employed as a school bus driver as of (the effective date of this amendment), who turns age 75 after (the effective date of this amendment), shall comply with (b)2 above within 30 days of his or her birthday, and every six months thereafter from the initial date of compliance.

iii. A school bus endorsement holder who is age 75 or older, who is not employed as a school bus driver as of (the effective date of this amendment), shall comply with (b)2 above within 30 days of starting his or her employment as a school bus driver, and every six months thereafter from the initial date of compliance.

3. The requirements to obtain and submit a certified Medical Doctor or Osteopathic Physician Evaluation identified in (b)1 and 2 above are in addition to, and may not be substituted with, the Medical Examiner's Certificate required by 49 CFR 391.43 and N.J.A.C. 13:21-23.28(l).

4. If a holder of a school bus endorsement age 70 or older does not comply with (b)1 and 2 above, the Commission shall suspend the holder's school bus endorsement.