

security officers to wear a badge on their uniform indicating this status and armed security officers who wear company-issued shirts to have the word "SECURITY" printed on the reverse side of the shirt.

(c) A security officer, when carrying a firearm in the performance of his or her duties, shall secure the weapon in a Level 3 or higher security holster.

[(b)] (d) (No change in text.)

13:55A-6.3 Maintenance and reporting of security [officer] **company employee** records

(a) A licensed security officer company shall require each person it employs [as a security officer] to execute and furnish a signed and notarized "employee statement" on a form provided by and in a manner prescribed by the Superintendent. Employee statements will be retained in safekeeping by the security officer company and shall be accessible to the Superintendent at all times.

(b)-(g) (No change.)

13:55A-6.5 Inspection of security officer **worksite locations and** records

(a) For the purpose of investigating whether a person has engaged in, or is engaging in, any act or practice declared unlawful under these rules or under the Security Officer Registration Act, or for the purpose of investigating the character, competency, integrity, or methods of operation of applicants, licensees or registrants therein, or of any owner or operator of any licensed security officer company, the Superintendent shall have the power to:

1. Inspect any premises owned and operated by a licensed security officer company, **to include any worksite location where company employees are posted**, at any time and without notification;
2. Examine and impound any record, book, computer, electronic database, recording device, document, account, paper, **list of worksites**, or other tangible thing, which is connected with any investigation; and
3. (No change.)

## TRANSPORTATION

### (a)

#### MOTOR VEHICLE COMMISSION

##### Information Searches

##### Proposed Amendment: N.J.A.C. 13:18-11.4

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

Authority: N.J.S.A. 39:2-3.4, 39:2A-21, and 28.

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

Proposal Number: PRN 2020-093.

Submit written comments by December 4, 2020, to:

Kate Tasch, Director, Legal and Regulatory Affairs  
Motor Vehicle Commission  
225 East State Street  
PO Box 162  
Trenton, New Jersey 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 to amend its rules pertaining to the provision of personal information as that term is defined by the New Jersey Driver's Privacy Protection Act ("New Jersey DPPA" or "Act"), N.J.S.A. 39:2-3.3 et seq. In particular, the amendments clarify and codify the responsibilities of persons requesting access to motor vehicle records containing personal information, individually, and through the Commission's Limited Online Access Program and Standard Data Files Program. They also clarify that governmental entities continue to be exempt from fees for records and are subject only to administrative

fees for overhead costs and system maintenance, and provide that nonprofit and not-for-profit organizations are also exempt from the fees in the Act and are subject only to payment of administrative fees for overhead costs and system maintenance. Pursuant to 18 U.S.C. § 2721(e), states are permitted to charge an administrative fee for the issuance of motor vehicle records.

A new definitions subsection is proposed at N.J.A.C. 13:18-11.4(a) to include the following definitions: "agreement," "applicant," "application," "authorized recipient," "commercial program participant," "Commission," "Employee and Agent List," "end user," "governmental entity," "Limited Online Access Program," "MOU," "nonprofit organization" or "not-for-profit organization," "permitted purposes," "personal information," "persons," "program participant," and "Standard Data Files Program."

Recodified N.J.A.C. 13:18-11.4(d) is proposed for amendment to indicate that, in addition to payment by check and money order, payment may be made by any other method approved by the Chief Administrator.

Recodified N.J.A.C. 13:18-11.4(e) is proposed for amendment to provide that, except as otherwise provided, governmental entities and nonprofit and not-for-profit organizations, within and outside the State of New Jersey, are exempt from certain fees, in addition to the current exemption for "governmental agencies."

Recodified N.J.A.C. 13:18-11.4(f) is proposed for amendment to provide for driver status records, where the requester does not require all the information provided in the \$12.00 driver history abstract. This amendment is based on increasing requests for driver status records, which are abbreviated driver history records, at a cost of \$2.00, as opposed to driver history abstracts, and is not a new fee, but a reduction in the fee for the driver history record, ordinarily a fee of \$12.00 per record. The cost of the abbreviated record, containing only driver name, license number, and whether the driver is in good standing or not, is based on the costs to the Commission in providing the driver status record, administrative overhead, and system maintenance. Additionally, governmental entities and nonprofit and not-for-profit organizations will only pay an administrative fee of \$150.00 for every 5,000 records, or part thereof, per calendar year under the Limited Online Access Program. This \$150.00 administrative fee is in lieu of a per record fee and is a significant savings for nonprofit and not-for-profit organizations. Although the governmental entities are not charged a per record fee, governmental entities will be charged an administrative fee to offset the costs to the Commission, including administrative overhead and system maintenance related to providing the requested records to those entities.

Existing N.J.A.C. 13:18-11.4(f), pertaining to high volume users, is proposed to be deleted as unnecessary because a minimum volume number of records is no longer used as a standard by the Commission.

N.J.A.C. 13:18-11.4(g) is proposed for amendment to provide that custom, ad hoc records requests will be considered by the Commission on a case-by-case basis, and the fees for such custom requests shall be in accordance with N.J.S.A. 47:1A-5(b) and (c), and 39:2-3.4. In addition, a decreased fee is proposed for governmental entities and nonprofit and not-for-profit organizations. In lieu of the fee of \$.05 per record, governmental entities and nonprofit and not-for-profit organizations would pay only an administrative fee of \$100.00 per file for files under the Standard Data Files Program. This amendment is also in accordance with N.J.S.A. 39:2-3.4(b), which allows a person to apply for participation in a public information program on an ongoing basis, in lieu of completing a form for each record request. Superfluous language regarding the fees is proposed to be removed as unnecessary and outdated.

Proposed new N.J.A.C. 13:18-11.4(h) sets forth the application requirements for participation in the Commission's Limited Online Access Program.

Proposed new N.J.A.C. 13:18-11.4(i) sets forth the requirements for participation in the Limited Online Access Program, which hinges acceptance into the Commission's Limited Online Access Program upon execution of an agreement or memorandum of understanding (MOU). The subsection sets forth the Commission's authority to determine the terms and conditions necessary to protect the data and information, and delineates initial minimum terms and conditions required in the Program Participant Agreement or MOU for the Limited Online Access Program.

Proposed new N.J.A.C. 13:18-11.4(j) sets forth the bases upon which a Program participant's access to the Limited Online Access Program may be denied, suspended, or revoked.

Proposed new N.J.A.C. 13:18-11.4(k) sets forth the requirements for application for, and participation in, the Commission's Standard Data File Program.

Proposed new N.J.A.C. 13:18-11.4(l) sets forth the requirement that a Program participant's acceptance into the Commission's Standard Data File Program hinges upon execution of an Agreement or MOU. The subsection sets forth the Commission's authority to determine the terms and conditions necessary to protect the data and information, and delineates initial minimum terms and conditions required in the Program Participant Agreement or MOU for the Commission's Standard Data File Program.

Proposed new N.J.A.C. 13:18-11.4(m) sets forth the circumstances under which the Commission may deny an application for participation in the Standard Data Files Program and the circumstances under which the Commission may suspend or revoke access to the Standard Data Files Program.

Proposed new N.J.A.C. 13:18-11.4(n) sets forth the requirement that Program participants enrolled in the Limited Online Access Program or Standard Data Files Program, shall maintain compliance with N.J.S.A. 56:8-163, Disclosure of breach of security to customers.

Proposed new N.J.A.C. 13:18-11.4(o) sets forth the requirement that Program participants enrolled in the Limited Online Access Program or Standard Data Files Program, shall develop and implement a cybersecurity program that conforms to specified frameworks or standards.

Proposed new N.J.A.C. 13:18-11.4(p) sets forth compliance time periods for updates or changes to the cybersecurity program proposed at N.J.A.C. 13:18-11.4(o).

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

#### **Social Impact**

The Commission anticipates that the proposed amendments will have a positive social impact on the citizens of New Jersey. The proposed amendments are beneficial to the public to the extent that costs to governmental entities will continue to be minimized by exempting them from per-record fees, and that nonprofit and not-for-profit organizations, which perform important social functions in the areas of religious, charitable, scientific, testing for public safety, literary, educational, fostering of national or international amateur sports competition, or seeking to prevent cruelty to children or animals, will also be exempt from per-record fees, allowing them to utilize a greater portion of their funds and funding to support the causes noted. In addition, the citizens of the State are benefitted by the security measures, and the rigorous application and participation requirements for Program participants to participate in the programs and secure access to Motor Vehicle Commission records.

The proposed amendments, which clarify the requirements for obtaining and using personal information, will also have a positive social impact on the citizens of New Jersey, because they increase the safety of personal information, and hold the program participants and recipients of that data and information to high standards, in accordance with the spirit of the DPPA. The proposed amendments address the major aspects of obtaining and using the Commission's data and information, including the requirements for participating in two programs, the Limited Online Access Program, and the Standard Data Files Program, obtaining information from the Commission, and the use and protection of personal information.

#### **Economic Impact**

The Commission anticipates that the proposed amendments will have a minimal, but positive economic impact on nonprofit and not-for-profit organizations that obtain records from the Commission in that they will be exempt from payment for individual records, and will be subject only to an administrative fee, to offset administrative overhead, and system maintenance costs to the Commission associated with requests. It is also anticipated that there will be minimal impact on governmental entities. Governmental entities will only be charged an administrative fee per

calendar year. Pursuant to 18 U.S.C. § 2721(e), states are permitted to charge an administrative fee for the issuance of motor vehicle records.

It is anticipated that the proposed new subsections will have a minimal economic impact in terms of operational costs to the Commission related to the Limited Online Access Program and Standard Data Files Program due to the application, review, and oversight process, and ongoing monitoring of the Program participants in the programs. The economic impact on the Commission is not significant when compared to the important positive social impact and benefit to the citizens of New Jersey by increasing the safety of their personal information, and the ability of the Commission to hold the Program participants and recipients of that data and information in the Limited Online Access Program and Standard Data Files Program to a high standard.

It is not anticipated that the proposed amendments will result in a significant increase in requests for records or a significant decrease in revenue.

#### **Federal Standards Analysis**

In compliance with N.J.S.A. 52:14B-23, notice is hereby given that the subject matter of the proposed amendments pertaining to provision of personal information is subject to the Federal DPPA, 18 U.S.C. §§ 2721 et seq. The proposed amendments exceed the minimum standards of the Federal DPPA, but are not in conflict with it, which is permissible. The proposed amendments exceed the minimum standards of the Federal DPPA by including standards for participation in the Commission's Limited Online Access Program and Standard Data Files Program, standards for denial of access, and grounds for suspension and revocation of access. Additionally, the proposed amendments exceed the minimum standards by including security requirements that address the use, disclosure, and security of the Commission's data and information by requiring, among other things, compliance with the Commission's Information and Technology policies, standards, guidelines, and implementation of a cybersecurity program. The Commission concludes that the proposed amendments provide additional necessary protection to the health, safety, and welfare of New Jersey citizens, and the minimal costs are outweighed by the benefits to the public.

#### **Jobs Impact**

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

#### **Agriculture Industry Impact**

The proposed amendments have no impact on the agriculture industry in New Jersey, as they pertain solely to the provision of motor vehicle records to qualified requesters.

#### **Regulatory Flexibility Statement**

A regulatory flexibility analysis is not required because the proposed amendments do not impose reporting, recordkeeping, or other compliance requirements on small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

#### **Housing Affordability Impact Analysis**

It is not anticipated that the proposed amendments will have any impact on the affordability of housing in New Jersey, and there is an extreme unlikelihood that they will evoke a change in the average costs associated with housing because they pertain solely to the provision of motor vehicle records to qualified requesters.

#### **Smart Growth Development Impact Analysis**

The proposed amendments will have no impact on smart growth and will not 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 solely to the provision of motor vehicle records to qualified requesters.

#### **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, since these proposed amendments relate solely to the provision of motor vehicle

records to qualified requesters. Accordingly, no further analysis is required.

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

SUBCHAPTER 11. ORGANIZATION OF THE MOTOR VEHICLE COMMISSION

13:18-11.4 [Fees;] **Definitions; fees; information search; exemptions; access; security**

(a) **Definitions. The following terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:**

**“Agreement” means the agreement between the New Jersey Motor Vehicle Commission and a commercial Program participant or a nonprofit organization or not-for-profit organization.**

**“Applicant” means a person, governmental entity, or nonprofit organization or not-for-profit organization that is requesting access to a motor vehicle record or records.**

**“Application” means the application for the Commission’s Limited Online Access Program or Standard Data Files Program.**

**“Authorized recipient” as provided at N.J.S.A. 39:2-3.4(d), means a person authorized to receive personal information from the Commission pursuant to N.J.S.A. 39:2-3.4(c).**

**“Commercial Program participant” means a Program participant that is not a governmental entity, nonprofit or not-for-profit entity.**

**“Commission” means the New Jersey Motor Vehicle Commission.**

**“Employee and agent list” means a list of all proposed authorized employees or agents that the Program participant seeks to allow to use any electronic communications established for the Limited Online Access Program and any data or information obtained therefrom.**

**“End user” means any person or entity for whose use information is requested from the Commission’s database. An end user may be either the person requesting the information or another person on whose behalf the information is requested.**

**“Governmental entity” means the State, Federal government, county, municipality, or any subdivision thereof.**

**“Limited Online Access Program” means a process in which a Program participant establishes electronic communications with the Commission to receive motor vehicle record information on a per record basis.**

**“MOU” means a memorandum of understanding between the Commission and a governmental entity.**

**“Nonprofit organization” or “not-for-profit organization” means an organization that presents proof, acceptable to the Chief Administrator, of its status as a nonprofit or not-for-profit organization, and that is exempt from taxation pursuant to Internal Revenue Code 501(c) and N.J.S.A. 54:32B-9(b) or 9(f)(1), and has presented to the Commission the organization’s certificate or articles of incorporation or other satisfactory proof of nonprofit or not-for-profit status that is acceptable to the Chief Administrator.**

**“Permitted purposes” means one or more of the uses of personal information permitted by the Federal Driver’s Privacy Protection Act of 1984, 18 U.S.C. §§ 2721 et seq. (Federal DPPA), and the New Jersey Driver’s Privacy Protection Act, N.J.S.A. 39:2-3.3 et seq. (New Jersey DPPA), and that is explicitly set forth by the Program participant on the applicant’s application and approved by the Commission; political and commercial solicitation and marketing shall not constitute permitted purposes.**

**“Person” means an individual, organization, or entity, but does not include the State, or a political subdivision thereof, consistent with N.J.S.A. 39:2-3.3.**

**“Personal information” means information that identifies an individual, including an individual’s photograph; Social Security number; driver identification number; name; address other than the five-digit zip code; telephone number; and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver’s status.**

**“Program” means the Limited Online Access Program and Standard Data Files Program.**

**“Program participant” means any persons, governmental entities, or nonprofit organization or not-for-profit organization approved for participation in the Limited Online Access Program or the Standard Data Files Program, including all officers, owners with an interest of 10 percent or more, managers, and all employees, agents, or subcontractors thereof.**

**“Standard Data Files Program” means a process by which motor vehicle records are provided by the Commission, based on a set of criteria and assembled into a file and provided to the Program participant either on a one-time basis or according to a regular schedule.**

**[(a)] (b) [A person] Persons** requesting to purchase a government record shall pay the fee established by the Motor Vehicle Commission as set forth in this section.

**[(b)] (c) (No change in text.)**

**[(c)] (d) Payment shall be made by check or money order payable to the New Jersey Motor Vehicle Commission, or by any other method approved by the Chief Administrator.**

**[(d)] (e) Except as otherwise provided [in] at (g) and (h) below, [governmental agencies] entities within and outside the State, and nonprofit and not-for-profit organizations within and outside the State are exempt from the fees set forth in this section.**

**[(e)] (f) Notwithstanding the fees set forth in this section, the Chief Administrator shall collect from [high volume on-line information users] Limited Online Access Program participants, and a fee of \$12.00 for each driver history record requested [on-line] online; a fee of \$12.00 for each vehicle registration record or each title record requested [on-line] online; a fee of \$12.00 for each title history requested [on-line.] online; and a fee of \$2.00 for each abbreviated driver history record, known as a driver status record, requested online. Governmental entities and nonprofit and not-for-profit organizations shall pay an administrative fee of \$150.00 for every 5,000 records, or part thereof, per calendar year.**

**[(f)] “High volume users,” as used in this section, shall be defined as those businesses approved by the Chief Administrator of the Motor Vehicle Commission for participation in its Limited On-Line Access program or its Standard Data Files program, which provides for the electronic transmittal of records. The Chief Administrator’s approval shall be based on a business demonstrating its beneficial interest in and legitimate business use of the Motor Vehicle Commission’s database information, as well as on the volume of requests for such information.**

**1. Political and commercial solicitation and marketing shall not constitute legitimate business uses of the database information.**

**2. The volume of requests constituting “high volume” shall be a minimum of 100 requests per calendar quarter for the Limited On-Line Access program.]**

**(g) Notwithstanding the fees set forth in this section, the Chief Administrator shall collect a fee of \$.05 per individual registration [transaction] record and individual title [transaction] record from users [(including businesses acting on behalf of governmental agencies)] of the Standard Data Files [program] Program, which provides for the electronic transmittal of registration and title records. The Chief Administrator may, in accordance with the New Jersey [Drivers’] Driver’s Privacy Protection Act (N.J.S.A. 39:2-3.3 et seq.), redact [“]personal information[”] from the registration and title records made available through the Standard Data Files [program] Program. In all cases, the social security number shall be redacted from the registration and title records made available through the Standard Data Files [program] Program. A business user’s utilization of personal information contained in the registration and title records that are made available through the Standard Data Files [program] Program shall be subject to the disclosure limitations set forth in the New Jersey [Drivers’] Driver’s Privacy Protection Act (N.J.S.A. 39:2-3.4). In addition to the per record [transaction] fee set forth above, the Chief Administrator shall collect from users [(including users who qualify as governmental agencies)] of the Standard Data Files [program] Program a [processing] fee [equal to the service fee imposed on the Motor Vehicle Commission by the Office of Information Technology] for data processing costs incurred in formatting the registration and title records requested by the user. [The**

\$.05 fee per individual registration transaction record and individual title transaction record set forth in this subsection shall be phased in as follows:

1. A fee of \$.03 per transaction record shall be collected in 2005;
2. A fee of \$.04 per transaction record shall be collected in 2006; and
3. A fee of \$.05 per transaction record shall be collected in 2007.]

The Commission will consider custom or ad hoc records requests on a case-by-case basis. The fee for a custom or ad hoc request shall be calculated on a case-by-case basis, and based on the costs, both direct and indirect, to the Commission of supplying the requested information. In lieu of the fee of \$.05 per record, governmental entities and nonprofit and not-for-profit organizations shall pay an administrative fee of \$100.00 per file.

(h) Application for participation in the Commission's Limited Online Access Program. Applicants for participation in the Commission's Limited Online Access Program must complete an application on a form to be provided by the Commission. At a minimum, the applicant must provide the following information:

1. The applicant's full name and tax identification number;
2. Whether any parent companies, subsidiary companies, or related companies or entities purchase information from the Commission, and, if so, the name of the company or entity, the relationship to the applicant, and whether the company or entity has ever been suspended or permanently revoked from purchasing information from the Commission;
3. Any other names under which the applicant has done or does business;
4. Whether the owners or principals of the applicant have ever had their ability to obtain records from the Commission, State, or any other state or jurisdiction suspended or revoked;
5. Whether the owners, principals, partners, officers, employees, or agents of the applicant have ever been convicted of a crime arising out of fraud; violence against another person; improper use/release of personal information; or relating to fraud in connection with the sale of a motor vehicle, in this State or any other state or jurisdiction;
6. The nature of the applicant's business activity;
7. Contact information for the applicant's representative, including a driver license number and a valid email address;
8. The type of access requested, including whether requests will be individual or batch requests, the type of information requested, identification of all employees that will have access to the online system, and whether applicant will be reselling or redisclosing the Commission records;
9. If the applicant will be reselling or redisclosing Commission records, the applicant must submit a list of clients and a separate document detailing the procedures and methods applicant will use to monitor the use of the information to ensure that applicant's clients comply with the New Jersey DPPA;
10. A completed Motor Vehicle Commission Technology Questionnaire;
11. The applicant shall submit a list of all proposed authorized individuals, including owners, principals, partners, officers of the applicant, and employees or agents, who will have access to Motor Vehicle Commission records and information. The applicant shall also submit a signed statement certifying that criminal history record background checks were performed on all owners, principals, partners, officers of the applicant, and employees or agents of the applicant that will have access to Motor Vehicle Commission records and information. The applicant shall also maintain a signed statement from all owners, principals, partners, officers of the applicant, and employees or agents of the applicant that will have access to Motor Vehicle Commission records and information certifying that they do not have any record of criminal history as specified at (h)5 above. Any principal, partner, officer of the applicant, or employee or agent of the applicant who has any record of criminal history as specified at (h)5 above shall be prohibited from access to Motor Vehicle Commission records and information. The applicant shall have an ongoing duty to the Motor Vehicle Commission to provide an updated certified statement and list of users who will have access to Motor Vehicle Commission records and information;

12. A certification of applicant agreeing to limit its use of all information obtained from the Commission to the specific permitted purposes set forth by applicant in its approved application, the agreement or MOU with the Commission, and pursuant to the terms of the New Jersey DPPA;

13. The Program participant is strictly prohibited from using Commission records to conduct surveillance or to investigate or locate an individual for reasons not specifically related to motor vehicle activity, including, but not limited to, immigration enforcement, divorce or domestic disputes, and matchmaking services. If reselling the data and/or information, the Program participant shall require the third-parties/end-users to represent in writing to the Program participant that they agree not to use Commission records to conduct surveillance or to investigate or locate an individual for reasons not specifically related to motor vehicle activity, including, but not limited to, immigration enforcement, divorce disputes, and matchmaking services; and

14. Any additional information the Chief Administrator may deem necessary.

(i) Program participant agreement or MOU for the Commission's Limited Online Access Program. If the applicant's application is approved, the applicant must execute an agreement or MOU with the Commission, to be reviewed by a member of the Commission's executive staff, and in a form to be provided by the Commission, to be accepted into the Commission's Limited Online Access Program and become a Program participant. The agreement or MOU may contain such terms and conditions as deemed necessary by the Commission for the protection of data and information provided by the Commission. The agreement or MOU shall contain, at a minimum, provisions addressing the following:

1. A description of the permitted purposes;
2. A description of the information and data to be provided pursuant to the agreement or MOU;
3. Restrictions upon use of the information provided pursuant to the agreement or MOU;
4. Confidentiality agreements between the Commission and applicant;
5. Identification of persons authorized to access data and information;
6. Security standards covering data supplied by the Commission, applicant's hardware, applicant's software, applicant's system, applicant's data transmission, applicant's network, and applicant's physical location;
7. Recordkeeping requirements;
8. Records retention requirements;
9. Storage of information and data;
10. Audit requirements;
11. Payment;
12. Termination;
13. If the applicant is reselling Commission information, the terms under which that information may be resold and used by third parties, and any restrictions on the resale of information to third parties; and
14. Such other conditions as deemed necessary by the Chief Administrator.

(j) Denial, suspension, or revocation of a Program participant's access to Limited Online Access Program.

1. The Commission may deny, suspend, or revoke a Program participant's online access for any of the following reasons:
  - i. The application is incomplete;
  - ii. The applicant requests access to residence address information when not authorized to obtain such access pursuant to statute, rule, or rule of court;
  - iii. Based on the applicant's stated purpose for requesting information, the Commission determines that the public interest in withholding the information outweighs the public interest in releasing the information;
  - iv. The information on the application is incorrect, false, misleading, or identifies an intended use of the information requested that is not an approved use;

v. The applicant, or a representative of the applicant, was previously a Program participant or a managerial employee of a Program participant whose online access was revoked for cause and never reissued by the Commission, or was suspended for cause and the terms of the suspension are not fulfilled. For the purposes of this subparagraph, a representative means an owner, principal, proprietor, limited or general partner, a managerial employee, or a director or officer active in the management, direction, or control of the business of the Program participant, or a parent, subsidiary, or related entity to the Program participant. A managerial employee is any person who exercises managerial control over the business of a Program participant;

vi. The Program participant, or any employee or agent of the Program participant, used information received from the Commission for a purpose other than the purpose stated in the application of the Program participant or approved by the Commission;

vii. The Program participant, or any employee or agent of the Program participant, used information received from the Commission in violation of the New Jersey DPPA;

viii. The Program participant submitted a check, draft, money order, or other means of payment to the Commission, that was thereafter dishonored when presented for payment;

ix. The Program participant sold or otherwise delivered information obtained from the Commission to a person other than the person or entity for whom the information was obtained;

x. The Program participant failed to pay for information received from the Commission;

xi. The Program participant or any representative of the Program participant represented to any person that the Program participant or such representative was an officer, agent, or employee of, or otherwise affiliated with, the Commission;

xii. The Program participant published any false or misleading advertising related to the purchase of information from the Commission;

xiii. The Program participant used the Commission logo in any advertising or other materials used in the business of the Program participant. The Program participant may not use the Commission logo in any advertising;

xiv. The Program participant violated any of the provisions contained in applicable rules;

xv. The Program participant has been convicted of a crime arising out of fraud in connection with the sale of a motor vehicle in any state, a felony in any state, or a crime involving violence against another person in any state, or the Program participant is affiliated with any other Program participant or other requester whose access to Commission data and information has been, or was suspended or revoked, and not reinstated;

xvi. The agreement or MOU between the Commission and the Program participant has expired; or

xvii. For any other reason determined to be appropriate by the Commission.

2. The Commission may terminate any Program participant's access to the Limited Online Access Program, and any agreement or MOU with a Program participant in its sole discretion, upon 10 days notice to the Program participant.

3. The Commission may terminate a Program participant's access to the Limited Online Access Program, and any agreement or MOU with a Program participant immediately and in its sole discretion, if it believes the individual or public health or individual or public safety may be at risk.

4. The Commission may terminate a Program participant's access to the Limited Online Access Program, and any agreement or MOU with a Program participant if the Program participant or end users are found to be using Commission records to conduct surveillance or to investigate or locate an individual, unless pursuant to N.J.S.A. 39:2-3.4(c)(6), for use by an insurer or insurance support organization, its agents, employees or contractors, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, ratings, or

underwriting. For any other purpose involving surveillance, the Program participant must submit an individual request for the evaluation and consideration of the Commission.

5. The Commission may cancel or amend a Program participant's access to the Limited Online Access Program, and any agreement or MOU with a Program participant, if such cancellation or amendment is deemed necessary by the Commission due to any changed requirement in the law or Commission policy that would prohibit such access or agreement, or upon a determination by the Commission that there has been a breach of the integrity or security of the data or information provided to the Program participant, or a failure of the Program participant to comply with established procedures or legal requirements relating to the Limited Online Access Program.

6. The Program participant is required to ensure that all end users comply with all the terms, conditions, and limitations of the Program participant's agreement or MOU with the Commission and is required to ensure that its end users use any and all data and information solely for the permitted purposes set forth in the Program participant's agreement or MOU with the Commission. A violation of the terms of the agreement between the Program participant and the end users to whom the Program participant sells or discloses, or has sold or disclosed, Commission data or information, will result in termination of participation in the Limited Online Access Program, but the Chief Administrator may, in the Chief Administrator's sole discretion, allow remediation of the violation by permitting the Program participant to provide to the Commission a remediation plan, which the Chief Administrator may accept, modify, or reject, in the Chief Administrator's sole discretion.

7. The Commission's decision to terminate participation in the Limited Online Access Program for any violation of the terms and conditions of a Limited Online Access Program Agreement or MOU between the Commission and any subsidiary, related entity, or parent company of the Program participant shall automatically terminate the Program participant's agreement or MOU with the Commission.

8. If a Limited Online Access Program Agreement or MOU between the Commission and any subsidiary, related entity, or parent company of the Program participant is suspended or terminated for violation of the terms of that agreement by the end users to whom the subsidiary, related entity or parent company sells or discloses, or has sold or disclosed, Commission data and information, the Program participant's participation in the Limited Online Access Program shall be indefinitely suspended. The Chief Administrator may, in the Chief Administrator's sole discretion, allow remediation of the violation by permitting the subsidiary, related entity, or parent company to provide to the Commission a remediation plan, which the Chief Administrator may accept, modify, or reject, in the Chief Administrator's sole discretion.

9. If any combination of the Program participant's subsidiaries, related entities, parent companies, or end users violates the terms of the end users' agreements or their agreement with the Commission or the Program participant, the Commission may terminate the Program participant's participation in the Limited Online Access Program permanently with no opportunity for reinstatement. Additionally, if the Program participant's participation in the Limited Online Access Program was suspended for a violation or violations by end users of subsidiaries, related entities, or parent companies to the Program participant, and thereafter reinstated, a subsequent violation may result in the Program participant's participation in the Limited Online Access Program being terminated with no opportunity for reinstatement.

(k) Application for participation in Commission's Standard Data Files Program. Applicants for participation in the Commission's Standard Data Files Program must submit a written request to the Commission that, at a minimum, must include:

1. The applicant's full name and tax identification number;

2. Whether any parent companies, subsidiary companies, or related companies or entities purchase information from the Commission, and, if so, the name of the company or entity, the relationship to applicant, and whether the company or entity has ever

been suspended or permanently revoked from purchasing information from the Commission;

3. Any other names under which the applicant has done or does business;

4. Whether the owners or principals of the applicant have ever had their ability to obtain records from the Commission, State, or any other state or jurisdiction suspended or revoked;

5. Whether the owners, principals, partners, officers, employees, or agents of the applicant have ever been convicted of a crime arising out of fraud; violence against another person; improper use/release of personal information; or relating to fraud in connection with the sale of a motor vehicle, in this State or any other state or jurisdiction;

6. The nature of the applicant's business activity;

7. Contact information for the applicant;

8. The type of information requested, identification of all employees that will have access to the requested information, and whether the applicant will be reselling or redisclosing the Commission records;

9. If the applicant will be reselling or redisclosing Commission records, the applicant must submit a list of clients and a separate document detailing the procedures and methods applicant will use to monitor the use of the information to ensure that the applicant's clients comply with the New Jersey DPPA;

10. A completed Motor Vehicle Commission Technology Questionnaire;

11. The applicant shall submit a list of all proposed authorized individuals, including owners, principals, partners, officers of the applicant, and employees or agents, who will have access to Motor Vehicle Commission records and information. Applicants shall also submit a signed statement certifying that criminal history record background checks were performed on all owners, principals, partners, officers of the applicant, and employees or agents of the applicant that will have access to Motor Vehicle Commission records and information. The applicant shall also maintain a signed statement from all owners, principals, partners, officers of the applicant, and employees or agents of the applicant that will have access to Motor Vehicle Commission records and information certifying that they do not have any record of criminal history as specified at (k)5 above. Any principal, partner, officer of the applicant, or employee or agent of the applicant who has any record of criminal history as specified at (k)5 above shall be prohibited from access to Motor Vehicle Commission records and information. The applicant shall have an ongoing duty to the Motor Vehicle Commission to provide an updated certified statement and list of users who will have access to Motor Vehicle Commission records and information;

12. A certification of the applicant agreeing to limit its use of all information obtained from the Commission to the specific permitted purposes set forth by the applicant in its approved application, the agreement or MOU with the Commission, and pursuant to the terms of the New Jersey DPPA;

13. The Program participant is strictly prohibited from using Commission records to conduct surveillance or to investigate or locate an individual for reasons not specifically related to motor vehicle activity, including, but not limited to, immigration enforcement, divorce or domestic disputes, and matchmaking services. If reselling the data and/or information, the Program participant shall require the third-parties/end-users to represent in writing to the Program participant that they agree not to use Commission records to conduct surveillance or to investigate or locate an individual for reasons not specifically related to motor vehicle activity, including, but not limited to, immigration enforcement, divorce disputes, and matchmaking services; and

14. Any additional information the Chief Administrator may deem necessary.

(l) Program participant agreement or MOU for the Commission's Standard Data Files Program. If the applicant's application is approved, the applicant must execute an agreement or MOU with the Commission, to be reviewed by a member of the Commission's executive staff, and in a form to be provided by the Commission to be accepted into the Commission's Standard Data Files Program and

become a Program participant. The agreement or MOU may contain such terms and conditions as deemed necessary by the Commission for the protection of data and information provided by the Commission. The applicant's agreement or MOU shall contain, at a minimum, provisions addressing the following:

1. A description of the information and data to be provided pursuant to the agreement or MOU;

2. Restrictions upon use of the information provided pursuant to the agreement or MOU;

3. Confidentiality agreements between the Commission and the applicant;

4. Security standards covering data supplied by the Commission, applicant's hardware, applicant's software, applicant's systems, applicant's data transmission, applicant's network, and applicant's physical location;

5. Recordkeeping requirements;

6. Records retention requirements;

7. Storage of information and data;

8. Audit requirements;

9. Payment terms;

10. Modification and termination conditions;

11. If the applicant will be reselling or redisclosing Commission information, the terms under which that information may be resold, redisclosed, and used by third-parties, and any restrictions on the resale or redisclosure of information to third parties; and

12. Such other conditions as deemed necessary by the Chief Administrator.

(m) Denial, suspension, or revocation of a Program participant's approval for the Standard Data Files Program shall be as follows:

1. The Commission may deny, suspend, or revoke a Program participant's approval to participate in the Standard Data Files Program for any of the following reasons:

i. The request is incomplete;

ii. The applicant requests residence address information when not authorized to obtain such information pursuant to statute, rule, or rule of court;

iii. Based on the applicant's stated purpose for requesting information, the Commission determines that the public interest in withholding the information outweighs the public interest in releasing the information;

iv. The information contained in the applicant's request is incorrect, false, misleading, or identifies an intended misuse of the information requested;

v. The applicant, or a representative of the applicant, was previously a Program participant or a managerial employee of a Program participant whose approval for participation in the Standard Data Files Program was revoked for cause and never reissued by the Commission, or was suspended for cause, and the terms of the suspension are not fulfilled. For the purposes of this subparagraph, a representative means an owner, principal, proprietor, limited or general partner, a managerial employee, or a director or officer active in the management, direction, or control of the business of the Program participant or a parent, subsidiary or related entity to the Program participant. A managerial employee is any person who exercises managerial control over the business of a Program participant;

vi. The Program participant, or any employee or agent of the Program participant, used information received from the Commission for a purpose other than the purpose stated in the request of the Program participant or approved by the Commission;

vii. The Program participant, or any employee or agent of the Program participant, used information received from the Commission in violation of the New Jersey DPPA;

viii. The Program participant submitted a check, draft, money order, or other means of payment to the Commission, that was thereafter dishonored when presented for payment;

ix. The Program participant failed to pay for information received from the Commission;

x. The Program participant or any representative of the Program participant represented to any person that the Program participant,

or such representative, was an officer, agent, or employee of or otherwise affiliated with the Commission;

xi. The Program participant published any false or misleading advertising related to the purchase of information from the Commission;

xii. The Program participant used the Commission logo in any advertising or other materials used in the business of the Program participant. The Program participant may not use the Commission logo in any advertising;

xiii. The Program participant violated any of the provisions contained in the applicable rules;

xiv. The Program participant has been convicted of a crime arising out of fraud in connection with the sale of a motor vehicle in any state, a felony in any state, or a crime involving violence against another person in any state, or the Program participant is affiliated with any other Program participant or other requester whose access to Commission data and information has been, or was, suspended or revoked, and not reinstated;

xv. The agreement or MOU between the Commission and the Program participant has expired; or

xvi. For any other reason determined to be appropriate by the Commission.

2. The Commission may terminate any Program participant's approval for the Standard Data Files Program, and any agreement or MOU with a Program participant in its sole discretion upon 10 days notice to the Program participant.

3. The Commission may terminate a Program participant's approval for the Standard Data Files Program, and any agreement or MOU with a Program participant immediately and in its sole discretion, if it believes an individual or public health or individual or public safety may be at risk.

4. The Commission may terminate a Program participant's approval for the Standard Data Files Program, and any agreement or MOU with a Program participant if the Program participant or end users are found to be using Commission records to conduct surveillance or to investigate or locate an individual, unless pursuant to N.J.S.A. 39:2-3.4(c)(6), for use by an insurer or insurance support organization, its agents, employees, or contractors, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, ratings, or underwriting. For any other purpose involving surveillance, the Program participant must submit an individual request for the evaluation and consideration of the Commission.

5. The Commission may cancel or amend a Program participant's approval for the Standard Data Files Program, and any agreement or MOU with a Program participant, if such cancellation or amendment is deemed necessary by the Commission due to any changed requirement in the law or Commission policy that would prohibit such access or agreement, or upon a determination by the Commission that there has been a breach of the integrity or security of the data or information provided to the Program participant or a failure of the Program participant to comply with established procedures or legal requirements relating to the Standard Data Files Program.

6. The Program participant is required to ensure that all end users comply with all the terms, conditions, and limitations of the Program participant's agreement or MOU with the Commission and is required to ensure that its end users use any and all data and information solely for the permitted purposes set forth in the Program participant's agreement or MOU with the Commission. A violation of the terms of the agreement between the Program participant and end users to whom the Program participant sells or

discloses, or has sold or disclosed, Commission data or information, will result in termination of participation in the Standard Data Files Program, but the Chief Administrator may, in the Chief Administrator's sole discretion, allow remediation of the violation by permitting the Program participant to provide to the Commission a remediation plan, which the Chief Administrator may accept, modify, or reject, in the Chief Administrator's sole discretion.

7. The Commission's decision to terminate participation in the Standard Data Files Program for any violation of the terms and conditions of a Standard Data Files Program Agreement or MOU between the Commission and any subsidiary, related entity, or parent company of the Program participant shall automatically terminate the Program participant's agreement or MOU with the Commission.

8. If a Standard Data Files Program Agreement or MOU between the Commission and any subsidiary, related entity, or parent company of the Program participant is suspended or terminated for violation of the terms of that agreement or MOU by end users to whom the subsidiary, related entity, or parent company sells or discloses, or has sold or disclosed, Commission data and information, the Program participant's participation in the Standard Data Files Program shall be indefinitely suspended. The Chief Administrator may, in the Chief Administrator's sole discretion, allow remediation of the violation by permitting the subsidiary, related entity, or parent company to provide to the Commission a remediation plan, which the Chief Administrator may accept, modify, or reject, in the Chief Administrator's sole discretion.

9. If any combination of the Program participant's subsidiaries, related entities, parent companies, or end users violates the terms of the end users' agreements or their agreement with the Commission or the Program participant, the Commission may terminate the Program participant's participation in the Standard Data Files Program permanently with no opportunity for reinstatement. Additionally, if the Program participant's participation in the Standard Data Files Program was suspended for a violation or violations by end users of subsidiaries, related entities, or parent companies to the Program participant, and thereafter reinstated, a subsequent violation may result in the Program participant's participation in the Standard Data Files Program being terminated with no opportunity for reinstatement.

(n) Program participants enrolled in the Limited Online Access or Standard Data Files programs shall at all times maintain compliance with N.J.S.A. 56:8-163, Disclosure of breach of security to customers.

(o) Program participants enrolled in the Limited Online Access or Standard Data Files programs shall develop and implement a cybersecurity program, that reasonably conforms to the current version of an industry-recognized cybersecurity framework, such as any of the following, or any combination of the following, subject to required revisions, if applicable:

1. The Framework for Improving Critical Infrastructure Cybersecurity developed by the National Institute of Standards and Technology (NIST);

2. The Center for Internet Security Critical Security Controls for Effective Cyber Defense publication; or

3. The International Organization for Standardization and International Electrotechnical Commission 27000 family — information security management systems.

(p) When updates or changes in the form of a final revision to a framework listed in (o) above is published, a Program participant shall reasonably conform to the revised framework not later than one year after the publication date stated in the revision.