

14:4-7.4 Marketing standards

(a)-(m) (No change.)

(n) In the marketing of their services, electric power suppliers, gas suppliers, brokers, energy agents, marketers, private aggregators, sales representatives, and telemarketers are prohibited from:

1. Making false or misleading marketing claims to a potential residential customer;

2. Contacting a potential residential customer by telephone for the purpose of the marketing of their services, if the electric power supplier, gas supplier, broker, energy agent, marketer, private aggregator, sales representative, or telemarketer does not have an existing business relationship with the potential residential customer and the residential customer's telephone number appears on the no telemarketing call list established and maintained by the Division of Consumer Affairs or the national do-not-call registry as maintained by the Federal Trade Commission.

(o) Any complaints related to (n)2 above shall be forwarded to the Division of Consumer Affairs for further investigation.

14:4-7.13 Penalties

(a) In addition to any other penalties, fines, or remedies authorized by law, an electric power supplier, gas supplier, broker, energy agent, marketer, private aggregator, sales representative, or telemarketer that violates the provisions of N.J.A.C. 14:4-7.3(d)1 and 7.4(n)1 and collects charges for electric generation service or gas supply service from a residential customer who was subjected to false or misleading advertising or marketing claims by the electric power supplier, gas supplier, broker, energy agent, marketer, private aggregator, sales representative, or telemarketer in violation of the provisions of N.J.A.C. 14:4-7.3(d)1 and 7.4(n)1:

1. Shall be liable to the residential customer in an amount equal to all charges paid by the residential customer after such violation occurs in accordance with any procedures as the board may prescribe, whether the electric power supplier or gas supplier provided the electric generation service or gas supply service to that customer, or the electric generation service or gas supply service was provided to the customer by a broker, energy agent, marketer, private aggregator, sales representative, or telemarketer who contacted the customer on behalf of the electric power supplier or gas supplier; and

2. Shall be liable for a civil penalty pursuant to N.J.S.A. 48:3-83.

(b) The Board is hereby authorized to revoke the license of any electric power supplier, gas supplier, broker, energy agent, marketer, or private aggregator found in violation of N.J.A.C. 14:4-7.3(d) or 7.4(n).

TRANSPORTATION

(a)

MOTOR VEHICLE COMMISSION

Licensing Service

Proof of Identity

Adopted Amendments: N.J.A.C. 13:21-1.3, 8.1, and 8.2

Adopted New Rule: N.J.A.C. 13:21-8.2A

Proposed: April 4, 2016, at 48 N.J.R. 569(a).

Adopted: August 9, 2016, by the Motor Vehicle Commission, Raymond P. Martinez, Chairman and Chief Administrator.

Filed: August 24, 2016 as R.2016 d.113, **with non-substantial changes** not requiring addition public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 39:2A-2.j, 39:3-4, 39:3-5, 39:3-9c, 39:3-10, 39:3-10f, and 39:3-10f3.

Effective Date: September 19, 2016.

Expiration Date: December 4, 2020.

Summary of Public Comments and Agency Responses:

Jointly filed comments were received from Edward Barocas of the American Civil Liberties Union (ACLU) of New Jersey and Ronald K. Chen of the Rutgers Constitutional Rights Clinic.

COMMENT: Commenters are concerned about the establishment of a *de facto* national ID system and accompanying database. Access to the database would be sought by third parties, such as employers, credit agencies, landlords, private investigators, and others. Each state database will be a treasure trove for hackers and identity thieves. A national ID card system would not protect us from terrorism but would significantly diminish the freedom and privacy of law-abiding citizens. Once put in place, it is exceedingly unlikely to be restricted to its original purpose.

RESPONSE: The six-point ID system, which will continue to be used for non-REAL ID compliant documents, has been in existence for 13 years now and is not being substantially amended. It has not led to a national ID card. The new six-point ID system that will be used for REAL ID compliant documents, with the changes that are mandated by the Federal REAL ID Act, is not intended, by the New Jersey Motor Vehicle Commission ("MVC" or "Commission"), as a national ID card.

COMMENT: The solution offered by the Commission to offer a choice between REAL ID compliant and non-REAL ID compliant documents is not really a meaningful choice in protecting the applicants' privacy interests. Although there are different document requirements for REAL ID compliant and non-REAL ID compliant options, from a privacy standpoint, there is little practical difference because both draw from a broad array of human activity.

RESPONSE: Yes, it is a meaningful choice. The Commission is only scanning the applications for non-REAL ID applicants, not the actual documents, whereas the Commission is scanning both the applications and the actual documents for REAL ID applicants. Offering applicants the choice between having their documents scanned and not having their documents scanned is a significant difference.

COMMENT: The Commission does not yet have authority to digitize and scan documents.

RESPONSE: Yes, the Commission has adopted its scanning rules (published elsewhere in this issue of the New Jersey Register).

COMMENT: The Commission should only scan documents for the REAL ID option.

RESPONSE: The Commission agrees and the Commission amended its scanning rules between the notice of proposal and the notice of adoption as a result of the public comment on the notice of proposal, so that documents will not be scanned for the non-REAL ID option.

COMMENTS: The regulations allowing scanning of documents are not yet final, the comments have not been addressed, and the regulations have not been published.

RESPONSE: The comments have been addressed and the scanning rules have been filed and published (published elsewhere in this issue of the New Jersey Register).

Summary of Agency-Initiated Change

At N.J.A.C. 13:21-8.2A(b)7, the Commission is changing "continued legal presence in the United States" to "continued legal status in the United States" to conform to Federal requirements.

Federal Standards Statement

Federal regulation (6 CFR Part 37) sets minimum standards for driver licenses and non-driver identification cards to make them acceptable by Federal agencies for official purposes. The proposed REAL ID document rules contained in this rulemaking are designed to ensure that New Jersey's proposed REAL ID special learner permits, examination permits, driver licenses, commercial driver licenses, and non-driver identification cards will be in compliance with the Federal REAL ID requirements.

Federal law (42 U.S.C. § 405(c)(2)(C)) specifically permits the respective states to utilize Social Security numbers in the administration of driver licenses or motor vehicle registration laws.

Federal REAL ID regulation (6 CFR 37.11) requires individuals who apply for REAL ID driver licenses and non-driver identification cards to present their Social Security cards or, if the Social Security card is not available, to submit a W-2 form, an SSA-1099 form, or a pay stub with the applicant's name and Social Security number on it. Also, pursuant to 6 CFR 37.11, state motor vehicle authorities are required to "subject each person applying for a REAL ID driver's license or identification card to a

mandatory facial image capture, and shall maintain photographs of individuals even if no card is issued.”

The adopted amendments do not cause the rules to, or amend any rule that does, exceed Federal standards or requirements.

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

(Agency Note: The text of N.J.A.C. 13:21-8.2 below reflects the adoption of amendments published elsewhere in this issue of the New Jersey Register.)

CHAPTER 21
LICENSING SERVICE

SUBCHAPTER 1. GENERAL PROVISIONS

13:21-1.3 Mandatory disclosure of Social Security number

(a) Non-REAL ID driver licenses and non-driver identification cards requirements are as follows:

1. An applicant for any Non-REAL ID special learner permit, examination permit, driver license, commercial driver license or any endorsement thereto, or registration shall disclose his or her Social Security number upon the application form furnished by the Chief Administrator of the Motor Vehicle Commission.

2. A special learner permit, examination permit, driver license, commercial driver license or any endorsement thereto, or registration shall not be issued unless the applicant therefor discloses his or her Social Security number upon the application form.

(b) REAL ID driver licenses and non-driver identification cards requirements are as follows:

1. An applicant for any REAL ID special learner permit, examination permit, driver license, commercial driver license or any endorsement thereto, non-driver identification card, or registration shall disclose his or her Social Security number upon the application form furnished and present his or her Social Security card or other acceptable documentation as listed in N.J.A.C. 13:21-8.2A, that bears his or her Social Security number.

2. A REAL ID special learner permit, examination permit, driver license, commercial driver license or any endorsement thereto, or non-driver identification card shall not be issued unless the applicant therefor discloses his or her Social Security number upon the application form and presents his or her Social Security card or other acceptable documentation as listed in N.J.A.C. 13:21-8.2A, that bears his or her Social Security number.

(c) (No change.)

SUBCHAPTER 8. DRIVER LICENSES

13:21-8.1 Definitions

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

“Non-driver identification card” means a non-driver identification card with a digital image of the person to whom it is issued.

“Permit” means a special learner permit, examination permit, or any written instrument issued under the provisions of N.J.S.A. 39:3-13 or 39:3-13.1 et seq.

“Principal residence” means the applicant’s primary place of residence, expressed as a street address.

“Road test” means that portion of the driver license examination wherein the applicant for a New Jersey basic driver license or motorcycle license demonstrates his or her ability to exercise safe and reasonable control in the operation of a motor vehicle of the type or general class of vehicles for which the license he or she has applied for would be valid.

13:21-8.2 Non-REAL ID age requirements; proof of identity and date of birth; proof that presence in United States is authorized under Federal law; proof of address

(a) A non-REAL ID document (special learner permit, examination permit, driver license, commercial driver license, or non-driver

identification card) will indicate that it is not acceptable for official purposes as determined by the Federal government. New Jersey allows each applicant to choose whether to apply for a non-REAL ID document (requirements are listed in this section) or REAL ID document (requirements are listed in N.J.A.C. 13:21-8.2A).

(b) Each applicant for a license, permit or non-driver identification card shall be required to furnish to the Commission, upon request, proof of identity and date of birth and proof that the applicant’s presence in the United States is authorized under Federal law. Such proof may be established by submission of the original or certified (by the issuing authority) copy of the primary and/or secondary documents that are listed in (c) below, as follows:

1.-5. (No change.)

6. The Commission shall refuse to grant any permit or license or non-driver identification card, if the Commission has reasonable cause to believe that a document is altered, false, or otherwise invalid.

7. An applicant who is not a United States citizen must submit proof of continued legal presence in the United States, as evidenced by a document listed in (c)1ii below or by a document issued by the United States Department of Homeland Security or another Federal agency that establishes the applicant’s legal right to be in the United States as of the time the proof is presented.

8. For persons who, for reasons beyond their control, are unable to present all necessary documents and must rely on alternate documents to establish identity or date of birth, Commission-authorized personnel may review, approve, or accept documentation that proves the applicant’s identity and date of birth, and that the applicant’s presence in the United States is authorized under Federal law.

9. The identity of the applicant shall be deemed to be the name recorded on the document(s) submitted to the Commission pursuant to this section unless evidence of a different name is established by the submission of a civil marriage or civil union certificate, divorce decree, or order of court.

10. The Commission reserves the right to make changes to the list of acceptable documents found in (c) below. Such changes will be posted on the Motor Vehicle Commission’s website, www.njmvc.gov, and will be available at all motor vehicle agencies.

(c) The following are acceptable documents:

1. Primary documents:

i. A United States citizen must submit at least one document from the following list:

Table with 2 columns: Document, Value. Row 1: United States or United States Territory birth certificate or certified copy with a state office of vital statistics or equivalent agency in the individual’s state of birth, 4

Probationary license with digitized image 4

ii. A person who is not a United States citizen must submit at least one document from the following list to establish lawful presence in the United States:

Table with 2 columns: Document, Value. Row 1: Current Permanent Resident Card (Form I-551) with expiration date and with United States Citizenship and Immigration Services (USCIS) verification, 4

Table with 2 columns: Document, Value. Row 1: Current Permanent Resident Card (Form I-551) without expiration date and with USCIS verification, 2

2. Secondary documents:

i. United States citizens and persons who are not United States citizens must submit at least one document from the list below.

Table with 2 columns: Document, Value. Row 1: Probationary license with digitized image (a secondary document for non-United States citizens only), 4. Row 2: Civil marriage or civil union certificate or divorce decree, 3

(d) Each applicant must present for inspection an acceptable proof of address document, which may be, but is not limited to, the following:

1.-5. (No change.)

6. First class mail from any government agency within six months, including a Commission-issued driver license renewal form;

7. A checking or savings account statement (bank or credit union) issued within the last 60 days; or

8. (No change.)

(e) Pursuant to N.J.S.A. 39:3-9b, victims of domestic violence and other specified crimes, and those the Chief Administrator determines to have good cause may show a mailing address on documents in this list as a post office box, an address other than the applicant's address, or other contact point as acceptable proof of principal residence.

(f) (No change in text.)

(g) Any person from a foreign country who is in New Jersey for a period of one year or less and who would be entitled to operate a motor vehicle in this State pursuant to (f) above but for the fact that he or she is not the holder of a driver license from the country in which he or she resides shall be eligible to make application for a New Jersey driver license or permit. If a New Jersey driver license or permit is issued, the Commission shall fix the expiration date at a date based on the period in which the person is authorized to be present in the United States under Federal immigration laws. The Commission may renew the driver license or permit only if it is demonstrated that the person's continued presence in the United States is authorized under Federal law.

(h) The Commission shall not issue a driver license or permit to a person who is entitled to operate a motor vehicle in this State pursuant to (f) above or who is entitled to operate a motor vehicle in this State under a reciprocity privilege granted by any law, unless said reciprocity privilege is revoked or terminated by the establishment of residence in this State and the surrender of said person's current out-of-State driver license to the Commission upon issuance of a New Jersey driver license.

(i) The Commission shall take a photo of each applicant for a new or renewed non-REAL ID-compliant special learner permit with photo, examination permit with photo, driver license, commercial driver license, or non-driver identification card upon submission of the application.

(j) Commission staff members are authorized to scan all applications presented or accepted toward satisfying document requirements. All scanned images will be retained electronically in accordance with N.J.S.A. 47:3-15 et seq., and N.J.A.C. 15:3-2.1 through 2.7 and 4.1 through 4.11.

13:21-8.2A REAL ID document age requirements; proof of identity and date of birth; proof that presence in United States is authorized under Federal law; proof of address

(a) A REAL ID document (special learner permit, examination permit, driver license, commercial driver license, or non-driver identification card) will indicate that it is acceptable for official purposes as determined by the Federal government. New Jersey allows each applicant to choose whether to apply for a REAL ID document (requirements are listed in this section) or a non-REAL ID document (requirements are listed in N.J.A.C. 13:21-8.2).

(b) Each applicant for a REAL ID-compliant special learner permit, examination permit, digitized driver license, commercial driver license, or non-driver identification card shall be required to furnish to the Commission proof of identity, principal residence, date of birth, and proof that the applicant's presence in the United States is authorized under Federal law. Such proof may be established by submission of the original or certified (by the issuing authority) copy of the primary and/or secondary documents that are listed in (c) below, as follows:

1. Each applicant must produce documents that total at least six points.
2. Each applicant must present at least one primary document.
3. Each applicant must present at least one secondary document.
4. An applicant shall not submit more than two documents with a point value of one.

5. If discrepancies exist within or between documents submitted by an applicant, the Commission may require that the applicant submit additional documentation.

6. The Commission shall refuse to grant any permit or license or non-driver identification card, if the Commission has reasonable cause to believe that a document is altered, false, or otherwise invalid.

7. An applicant who is not a United States citizen must also submit proof of continued legal *[presence]* ***status*** in the United States evidenced by a document listed in (c)l*ii* below or by a document issued by the United States Department of Homeland Security or another

Federal agency that establishes the applicant's legal right to be in the United States as of the time the proof is presented.

8. For persons who, for reasons beyond their control, are unable to present all necessary documents and must rely on alternate documents to establish identity or date of birth, Commission-authorized personnel may review, approve, or accept alternate documentation that proves the applicant's identity or date of birth, or that the applicant's presence in the United States is authorized under Federal law.

9. The identity of the applicant shall be deemed to be the name recorded on the document(s) submitted to the Commission pursuant to this section unless evidence of a different name is established by the submission of a civil marriage or civil union certificate, divorce decree, or order of court.

10. The Commission reserves the right to make changes to the list of acceptable documents found in (c) below. Such changes will be posted on the Motor Vehicle Commission's website, www.njmvc.gov, and will be available at all motor vehicle agencies.

(c) The following are acceptable documents:

1. Primary documents:

i. A United States citizen must submit at least one document from the following list:

<u>Document</u>	<u>Value</u>
United States or United States Territory birth certificate or certified copy filed with a state office of vital statistics or equivalent agency in the individual's state of birth	4
United States Department of State birth certificate (Form FS-545 or DS-1350)	4
United States Department of State Consular Report of Birth Abroad (Form FS-240)	4
Unexpired United States passport	4
Unexpired New Jersey digitized driver license issued on or after *[the effective date of this new section]* *September 19, 2016*	4
Valid New Jersey non-driver digitized identification card issued on or after *[the effective date of this new section]* *September 19, 2016*	4
Certificate of Naturalization (Form N-550 or N-570)	4
Certificate of Citizenship (Form N-560 or N-561)	4
Unexpired special learner permit with digital image issued on or after *[the effective date of this new section]* *September 19, 2016*	4
Unexpired examination permit with digital image issued on or after *[the effective date of this new section]* *September 19, 2016*	4
Probationary license with digital image issued on or after *[the effective date of this new section]* *September 19, 2016*	4
Current photo driver license of any other state of the United States including the District of Columbia that meets the requirements of 6 CFR Part 37	4

ii. A person who is not a United States citizen must submit at least one document from the following list to establish lawful presence in the United States:

<u>Document</u>	<u>Value</u>
Current Permanent Resident Card (Form I-551) with expiration date and with United States Citizenship and Immigration Services (USCIS) verification	4
Unexpired foreign passport with USCIS verification and with valid record of arrival/departure (Form I-94)	4
Refugee Travel Document (Form I-571)	4
United States Re-entry Permit (Form I-327)	4
Valid I-94 stamped "Refugee," "Parolee," "Asylee" or "Notice of Action" (Form I-797 approved petition) by USCIS	4
Valid I-94 with attached photo stamped "Processed for I-551 ..." by USCIS	4
Current photo employment authorization card (Form I-688B or I-766)	3
Current Permanent Resident Card (Form I-551) without expiration date and with USCIS verification	2
Photo Temporary Resident Card (Form I-688)	2

2. Secondary documents:

i. United States citizens and persons who are not United States citizens must submit at least one document from the list below.

<u>Document</u>	<u>Value</u>
Valid New Jersey digitized driver license issued on or after *[(the effective date of this new section)]* September 19, 2016* (a secondary document for non-United States citizens only)	4
Unexpired special learner permit with digital image issued on or after *[(the effective date of this new section)]* September 19, 2016* (a secondary document for non-United States citizens only)	4
Unexpired examination permit with digital image issued on or after *[(the effective date of this new section)]* September 19, 2016* (a secondary document for non-United States citizens only)	4
Valid Probationary license with digital image issued on or after *[(the effective date of this new section)]* September 19, 2016* (a secondary document for non-United States citizens only)	4
Legal name change court order signed by a judge or court clerk	3
Civil marriage or civil union certificate or divorce decree	3
United States adoption papers	3
Current United States military photo identification card	3
Current United States military dependent card	3
United States military photo retiree card	3
New Jersey firearm purchaser card	3
Valid United States government employee driver license	2
Valid United States government employee photo identification card	2
United States military discharge papers (DD214)	2
Federal Aviation Administration pilot license	2
United States school photo identification card with transcript or school records	2
United States college photo identification card with transcript	2
Current photo driver license of any state of the United States including New Jersey and the District of Columbia *[(issued prior to the effective date of this new section)]* September 19, 2016*	1
State professional license	1
New Jersey public assistance card with photo	1
Social Security card with Social Security Administration (SSA) verification	1
High school diploma or GED (general equivalency diploma)	1
Bank statement/record (cannot be submitted in conjunction with ATM card)	1
ATM (automated teller machine) card with preprinted name and applicant's signature (cannot be submitted in conjunction with bank statement)	1
Current health insurance card or current prescription card	1
Current employee identification card accompanied by a printed pay stub	1
Property tax statement, bill or receipt issued by a New Jersey municipality	1
High school certificate (written test waiver)	1
Veteran's Administration universal access photo identification card	1

(d) Each applicant must present for inspection two acceptable proof of principal residence documents, which may be, but are not limited to, the following:

1. A utility or credit card bill displaying applicant's name at current address, issued within the last 90 days;
2. A property tax bill, statement, or receipt within the last year;
3. Any letter or correspondence (including tax bills) received from the Federal Internal Revenue Service or any state tax office within the past year;
4. An original lease or rental agreement with the name of the applicant listed as the lessee or renter;
5. First class mail from any government agency within six months, including a Commission-issued driver license renewal form;
6. A checking or savings account statement (bank or credit union) issued within the last 60 days; or

7. A certification, verifying the address of an applicant under 18 years of age who does not have his or her own proof of address verification, from a parent or guardian.

(e) Pursuant to N.J.S.A. 39:3-9b, victims of domestic violence and other specified crimes and those the Chief Administrator determines to have good cause may show a mailing address on documents in this list as a post office box, an address other than the applicant's address, or other contact point as acceptable proof of principal residence.

(f) Each applicant must present for inspection acceptable proof of Social Security number documentation (which will be verified through the Social Security Online Verification system), which shall be either:

1. Social Security card;
2. W-2 form issued within the past year;
3. Pay stub with applicant's name and Social Security number;
4. SSA-1099 form issued within the past year; or
5. Non-SSA-1099 form issued within the past year.

(g) Any person from a foreign country who is in New Jersey for a period of one year or less may operate a motor vehicle in this State if he or she is the holder of a current driver license in good standing from the country in which he or she resides, provided that such license authorizes operation of the class of vehicle to be operated in this State. The Chief Administrator may deny, suspend, or revoke the driving privilege conferred by this subsection for violation of any of the provisions of Title 39 of the Revised Statutes or on other reasonable grounds upon notice and an opportunity to be heard pursuant to the procedures in N.J.A.C. 13:19-1.

(h) Any person from a foreign country who is in New Jersey for a period of one year or less and who would be entitled to operate a motor vehicle in this State pursuant to (g) above but for the fact that he or she is not the holder of a driver license from the country in which he or she resides shall be eligible to make application for a New Jersey driver license or permit. If a New Jersey driver license or permit is issued, the Commission shall fix the expiration date at a date based on the period in which the person is authorized to be present in the United States under Federal immigration laws. The Commission may renew the driver license or permit only if it is demonstrated that the person's continued presence in the United States is authorized under Federal law.

(i) The Commission shall not issue a driver license or permit to a person who is entitled to operate a motor vehicle in this State pursuant to (g) above or who is entitled to operate a motor vehicle in this State under a reciprocity privilege granted by any law, unless said reciprocity privilege is revoked or terminated by the establishment of residence in this State and the surrender of said person's current out-of-State driver license to the Commission upon issuance of a New Jersey driver license.

(j) The Commission shall take a photo of each applicant for a new or renewed REAL ID compliant special learner permit with photo, examination permit with photo, driver license, commercial driver license, or non-driver identification card upon submission of the application.

(a)

MOTOR VEHICLE COMMISSION

Licensing Service and Document Scanning

Adopted Amendments: N.J.A.C. 13:21-8.2 and 13:82-8.20

Proposed: October 5, 2015, at 47 N.J.R. 2428(a).

Adopted: June 14, 2016, by the Motor Vehicle Commission, Raymond P. Martinez, Chairman and Chief Administrator.

Filed: July 7, 2016, as R.2016 d.088, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 12:7-72, 12:7-85, 39:2A-2.j, 39:3-4, 39:3-9c, 39:3-10, and 39:3-10f.

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Expiration Dates: December 4, 2020, N.J.A.C. 13:21; January 4, 2017, N.J.A.C. 13:82.