

RULE ADOPTIONS

LAW AND PUBLIC SAFETY

(a)

DIVISION OF CRIMINAL JUSTICE

Notice of Readoption

Safe and Secure Communities Program

Readoption: N.J.A.C. 13:79

Authority: N.J.S.A. 52:17B-168.

Authorized By: Robert Lougy, Acting Attorney General.

Effective Date: July 7, 2016.

New Expiration Date: July 7, 2023.

Take notice that pursuant to N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 13:79 will expire on August 7, 2016. These rules establish standards for the awarding of initial and successive grants for law enforcement personnel from the Safe Neighborhoods Services Fund pursuant to the Safe and Secure Communities Act. The rules also establish guidelines for the receipt of program funds, including application procedures for local law enforcement agencies seeking grant funding for the salaries of police officers and other law enforcement personnel deployed in a law enforcement project, as well as procedures to ensure grantee accountability.

The Division of Criminal Justice has reviewed the rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated, as required by N.J.S.A. 52:17B-168 and N.J.A.C. 13:79. Therefore, pursuant to N.J.S.A. 52:17B-4.4, and in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted and shall continue in effect for a seven-year period.

TRANSPORTATION

(b)

MOTOR VEHICLE COMMISSION

Executive and Administrative Service

Waiver from Rules

Adopted New Rule: N.J.A.C. 13:18-11.9

Proposed: October 5, 2015, at 47 N.J.R. 2426(a).

Adopted: June 29, 2016, by Raymond P. Martinez, Chairman and Chief Administrator, Motor Vehicle Commission.

Filed: July 1, 2016, as R.2016 d.086, **without change**.

Authority: N.J.S.A. 39:2A-21.

Effective Date: August 1, 2016.

Expiration Date: March 9, 2018.

Summary of Public Comment and Agency Response:

The written comment received by the Motor Vehicle Commission (the Commission) regarding its October 5, 2015, notice of proposal at 47 N.J.R. 2426(a) is available for inspection at the Office of the Chief Administrator, Regulatory and Legislative Affairs, Motor Vehicle Commission, 225 East State Street, 9th Floor, Trenton, New Jersey. The Motor Vehicle Commission received the following written comment from Barbara Sachau regarding proposed new N.J.A.C. 13:18-11.9.

COMMENT: Ms. Sachau submitted her comment via e-mail. The majority of the comment was typed in a combination of letters that did not form words in English. To the extent that the e-mail was understandable, Ms. Sachau is concerned that implementation of the waiver provision proposed in the new rules could lead to corruption and political favoritism without public knowledge.

RESPONSE: The Commission disagrees that the Commission's implementation of a waiver process would lead to corruption and political favoritism. In drafting the proposed new rule, the Commission took great efforts to ensure that any waiver request must be duly supported by documentation justifying a waiver, that an applicant for a waiver submit an alternative proposal to ensure the safety and welfare of the public, and that an applicant submit any other documentation the Chief Administrator determines necessary for evaluation of the request. The Commission would retain the waiver application, and all applications would be subject to review upon proper request under the Open Public Records Act, N.J.S.A. 47:1A-1.1 et seq., subject to the limitations set forth in the act. Thus, the Commission, in considering any waiver request, must ensure that the waiver is properly reviewed and that there is documentation supporting the Commission's denial or approval of the waiver request. Additionally, the proposed new rule provides that the Chief Administrator shall not grant a waiver "where to do so would be contrary to or inconsistent with Federal laws, the Motor Vehicle Commission's enabling statutes, rules, and mission, or if the waiver would jeopardize public safety or welfare." The Commission is confident that there are sufficient safeguards in place to prevent the improper granting of a waiver application.

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal standards applicable to the adopted new rule.

Full text of the adopted new rule follows:

13:18-11.9 Waiver from rules

(a) Any person or entity may seek a waiver from one or more provisions of the Motor Vehicle Commission's rules, provided the person or entity demonstrates that compliance represents an undue hardship and the Chief Administrator, or his or her designee, determines that such waiver is consistent with the general purpose and intent of the Motor Vehicle Commission's enabling statutes, rules, and mission.

(b) A person or entity seeking a waiver shall submit the request in writing to the Office of the Chief Administrator at the address set forth in N.J.A.C. 13:18-11.2 and shall include the following:

1. The specific rule(s) or part(s) of the rule for which a waiver is requested;
2. The specific reason(s) justifying the waiver, including a statement of the type and degree of hardship that would result if the waiver were not granted;
3. An alternative proposal to ensure the safety and welfare of the public;
4. Documentation that supports the waiver request and all assertions made in the request, if applicable;
5. A statement addressing how the waiver would fulfill the purpose and intent of the Motor Vehicle Commission's enabling statutes, rules, and missions; and
6. Such other additional documentation that the Chief Administrator, or his or her designee, determines necessary and appropriate for evaluation and review of the waiver request.

(c) The Chief Administrator, or his or her designee, may waive application of any rule in an individual circumstance or on his or her own motion upon finding that such relief is warranted based upon the provisions set forth in (a) above.

(d) The Chief Administrator, or his or her designee, shall not grant a waiver of the Motor Vehicle Commission's rules where to do so would be contrary to or inconsistent with Federal laws, the Motor Vehicle Commission's enabling statutes, rules, and mission, or if the waiver would jeopardize public safety or welfare.

(e) The Chief Administrator, or his or her designee, may revoke a waiver at any time if the Chief Administrator determines that the waiver no longer fulfills the purpose and intent of the Motor Vehicle

Commission’s enabling statutes, rules, and mission or that continuing the waiver would jeopardize public safety or welfare.

(a)

MOTOR VEHICLE COMMISSION

Electronic Lien and Titling Program

Adopted Amendments: N.J.A.C. 13:21-3.6, 3.7, and 3.9

Proposed: August 3, 2015, at 47 N.J.R. 1902(a).
 Adopted: June 29, 2016, by Raymond P. Martinez, Chairman and Chief Administrator, Motor Vehicle Commission.
 Filed: July 1, 2016, as R.2016 d.087, **without change**.
 Authority: N.J.S.A. 39:2-3.3 et seq., 39:2-3.8, and 39:10-1 et seq.
 Effective Date: August 1, 2016.
 Expiration Date: December 4, 2020.

Summary of Public Comments and Agency Responses:

The written comments received by the Motor Vehicle Commission (the Commission) regarding its August 3, 2015, notice of proposal at 47 N.J.R. 1902(a) are available for inspection at the Office of the Chief Administrator, Regulatory and Legislative Affairs, Motor Vehicle Commission, 225 East State Street, 9th Floor, Trenton, New Jersey. The Motor Vehicle Commission received the following written comments from Dealertrack Technologies (DT) regarding the changes proposed to N.J.A.C. 13:21-3.7.

1. COMMENT: The proposed wording implies that if the lien isn’t filed electronically, an Electronic Lien and Titling (ELT)-participating lienholder would not receive an electronic title. Likewise, the proposed wording “through an electronic lien function” doesn’t seem to support the paper submission of a lien by a non-ELT-participating dealer or lender.

RESPONSE: There are currently three methods by which a lien can be added to a vehicle: 1. the Dealer Services Program; 2. the Dealer Online Services Program; and 3. at a Commission Agency. The ELT Program will not change the methods by which a lien can be added; therefore, paper submissions to add liens will still be accepted at Commission agencies. Regardless of which method is used to add a lien to a title, if the subject lien holder is an ELT participant, the entity will receive an electronic title.

2. COMMENT: Will ELT-participating lenders be able to add their own liens through the “add lien function”?

RESPONSE: No. All liens will need to be added through one of the three current methods: 1. the Dealer Services Program; 2. the Dealer Online Services Program; and 3. at an MVC Agency. In the future, the MVC may add other methods to electronically add a lien.

Federal Standards Statement

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

Full text of the adoption follows:

13:21-3.6 Form of the Electronic Lien and Titling Program
 (a) Pursuant to the authority granted under N.J.S.A. 39:10-1 et seq. and 39:2-3.8, the Chief Administrator may establish an Electronic Lien and Titling Program for the issuance and use of electronic titles.

- 1. (No change.)
- Recodify existing 3.-4. as 2.-3. (No change in text.)

13:21-3.7 Notation of security interest at time of sale
 (a) When a new motor vehicle is sold in this State, if in connection with such sale, a security interest is taken or retained by the seller to secure all or a part of the purchase price of the motor vehicle, or is taken by a person who, by making an advance or incurring an obligation, gives value to enable the purchaser to acquire rights in the motor vehicle, and that seller retaining a security interest or person making an advance or incurring an obligation giving value to enable the purchaser to acquire rights in the motor vehicle is a participating lien holder in the Electronic

Lien and Titling Program, that person or entity shall electronically deliver to the Commission the name and business address of the secured party noted through an electronic add lien function. Upon notification of the creation of a security interest, the Chief Administrator shall make notation of the security interest and an electronic title shall be sent through a service provider to the participating lien holder.

- (b) (No change.)

13:21-3.9 Electronic title; perfection of a security interest
 The notation of the name and business or residence address of a secured party or his or her assignee, on the electronic title, as provided in N.J.S.A. 39:10-8 and 39:10-9, and the proper presentation of documents from the purchase of a motor vehicle to the Chief Administrator, in accordance with N.J.S.A. 39:10-11, and the compliance with the requirements of sections C. and D. of N.J.S.A. 39:10-11 shall be in lieu of all filing requirements imposed by chapter 9 of Title 12A of the New Jersey Statutes and shall constitute the perfection of a security interest in the motor vehicle, and the rights and remedies of the debtors and the secured parties in respect to such security interest shall, except as otherwise expressly provided for by N.J.S.A. 39:10-1 et seq., or in this subchapter, be subject to and governed by chapter 9 of Title 12A of the New Jersey Statutes.

OTHER AGENCIES

(b)

PUBLIC EMPLOYMENT RELATIONS COMMISSION

Notice of Readoption

Definitions, Service, Construction

Readoption with Technical Changes: N.J.A.C. 19:10

Authority: N.J.S.A. 34:13A-5.4(e), 34:13A-6(b), and 34:13A-11.
 Authorized By: P. Kelly Hatfield, Chair, Public Employment Relations Commission.
 Effective Date: July 1, 2016.
 New Expiration Date: July 1, 2023.

Take notice that pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, the rules at N.J.A.C. 19:10 were to expire on September 24, 2016. The rules contained in N.J.A.C. 19:10 define terms (Subchapter 1); set forth service and filing requirements (Subchapter 2); provide how Commission rules should be construed and applied (Subchapter 3); allow delegation of the Commission’s authority (Subchapter 4); describe how the Commission is organized (Subchapter 5); and provide for the filing of rulemaking petitions by interested parties (Subchapter 6). The Commission is readopting these rules with technical changes to replace “Chairman” and “Chairman of the Commission” with the gender-neutral “Commission Chair” or “Chair,” respectively.

The Commission has determined that the chapter remains necessary, proper, reasonable, efficient, understandable, and responsive to the purposes for which it was first promulgated and should be readopted with technical changes.

Therefore, pursuant to N.J.S.A. 52:14B-5.1.c(1), N.J.A.C. 19:10 is readopted and shall continue in effect for a seven-year period.

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

SUBCHAPTER 1. DEFINITIONS

19:10-1.1 Definitions

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

...
 [“Chairman”] **“Chair”** means the full-time member of the Public Employment Relations Commission who is its chief executive officer and administrator and is also the chief executive officer and administrator of the Division of Public Employment Relations.