

STATE OF NEW JERSEY

Philip D. Murphy
Governor

Sheila Y. Oliver
Lt. Governor

B. Sue Fulton
Chair and Chief Administrator

June 13, 2022

WAIVER

Subject Rules: N.J.A.C. 13:21-8.2(b)7 (proof of Social Security number for standard driver license and identification card application) and -8.2A(f) (proof of Social Security number for REAL ID-compliant driver license and nondriver identification card)

I. Introduction

This waiver is initiated by the Chief Administrator of the New Jersey Motor Vehicle Commission (“Commission”) to ease the driver license and nondriver identification card application process. In 2021 the Department of Homeland Security announced the enactment of the REAL ID Modernization Act of 2021, Pub. L. 116-260, which streamlined the application requirements of the REAL ID Act of 2005, Pub. L. 109-13, and eliminated unnecessary obstacles in obtaining driver licenses and nondriver identification cards. Consistent with the reasoning of the Department of Homeland Security, and in the best interests of the residents of the State of New Jersey, I am issuing a partial waiver of Commission regulations for the reasons set forth below.

II. Background

In 2019, the New Jersey Legislature enacted P.L. 2019, c.271, creating two categories of documents: (a) REAL ID-compliant driver licenses and nondriver identification cards, and (b) standard driver licenses and nondriver identification cards. The New Jersey Legislature incorporated the standards of the REAL ID Act of 2005, as well as any supplementary or amendatory acts thereto, which includes the REAL ID Modernization Act of 2021. (N.J.S.A. 39:3-10, 39:3-13.4, 39:3-29.3)

The New Jersey legislation was drafted so that the application standards for REAL ID-compliant and standard documents are similar to each other (aside from the REAL ID requirements), for more efficient processing and to ensure that all Commission-issued documents are recognized as official forms of identification (except where federal standards apply). Under P.L. 2019, c.271 (N.J.S.A. 39:3-10 and N.J.S.A. 39:3-29.3), both standard and REAL ID applicants who have Social Security numbers are required to show “proof” of Social Security number (SSN), in addition to verification of the number with the Social Security Administration. The documentary proofs

promulgated by the Commission are based on a REAL ID Act requirement that existed before the REAL ID Modernization Act reforms. The Commission's regulations mirror the Department of Homeland Security's list of acceptable documents for proof of SSN (N.J.A.C. 13:21-8.2A(f) and N.J.A.C. 13:21-8.2(c)3).

The REAL ID Modernization Act streamlined the application process in several aspects, including the elimination of the requirement to provide documentary proof of SSN for REAL ID applicants. The MVC must still verify the SSN with the Social Security Administration; if the SSN and information provided do not match the SSA's information, the application will be denied, and the applicant will be required to return with documentary proof pursuant to the Commission's regulations.

III. Applicable Rules

- a. Standard driver license and nondriver identification card, proof of Social Security number

N.J.A.C. 13:21-8.2(b)7 requires that each applicant with a Social Security number "submit proof of their Social Security number, as evidenced by a document listed at (c)3," as follows:

An applicant may submit any of the following documents to establish proof of Social Security number: i. Social Security card (no copies or laminations); ii. W-2 form issued within the past year; iii. Pay stub (must include full name and full Social Security number) issued within the past year; iv. SSA-1099 form (issued within the past year); or v. Non-SSA-1099 form (issued within the past year).

- b. REAL ID-compliant driver license and nondriver identification card, proof of Social Security number

N.J.A.C. 13:21-8.2A(f) states:

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.

IV. Waiver Evaluation Criteria

The Chief Administrator is authorized to "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 [N.J.A.C. 13:18-11.9(a)]." N.J.A.C. 13:18-11.9(c). N.J.A.C. 13:18-11.9(a) permits the issuance of a waiver where

“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.”

V. Discussion and Findings

The REAL ID Modernization Act eased the license and identification card application process without compromising security or accuracy of information. The Department of Homeland Security conferred with the Social Security Administration and determined that, because the states must verify the SSN with the Social Security Administration, the requirement to produce a document showing the applicant's full SSN is duplicative and unnecessary and has resulted in delays in obtaining licenses and identification cards for those who cannot readily locate a document with the full SSN or their Social Security card.

Having to produce a Social Security card or other documentation containing the full SSN can be a challenge for many people. Even obtaining a duplicate Social Security card can be complicated and result in delay. The Social Security Administration verifies the SSN provided by the applicant on the application. If the information and the number submitted by the applicant do not verify with the SSA, the Commission will not issue a document to the applicant. The individual will then be required to produce a document from the acceptable documents list, as proof of SSN.

If the SSN verifies and all relevant information matches, the Commission has met the requirement to obtain and verify each applicant's SSN. This small change in the application requirements will benefit every applicant for a license or identification card, whether standard or REAL ID. This change will also help reduce repeat trips to the Commission's agencies, and applications to the Social Security Administration for duplicate cards. Finally, this change in process is not inconsistent with the Commission's enabling statutes, rules or mission, nor would it jeopardize the public safety or welfare. As stated above, this change is consistent with recent amendments to federal law, is consistent with the intent of New Jersey law, and is a benefit to the public and the Commission.

VI. Conclusion

Based on the above discussion and findings, I hereby issue this partial Waiver of the requirements of N.J.A.C. 13:21-8.2(b)7 and N.J.A.C. 13:21-8.2A(f), as described below:

1. The requirement to produce documentary proof of Social Security number, as set forth in N.J.A.C. 13:21-8.2(b)7 and N.J.A.C. 13:21-8.2A(f), is waived if the applicant provides the full Social Security number on the driver license or nondriver identification card application and the Commission successfully verifies the applicant's Social Security number, name and date of birth with the Social Security Administration.

2. If any of the information provided by the applicant does not verify with the Social Security Administration, the application will be denied until the applicant returns with documentary proof of Social Security number as set forth in the Commission's regulations.
3. All other requirements set forth in N.J.A.C. 13:21-8.2 and -8.2A remain in effect.

This Waiver shall take effect June 15, 2022 and shall remain in effect until revoked by the Chief Administrator pursuant to N.J.A.C. 13:18-11.9(e).

A handwritten signature in black ink, appearing to read "B. Sue Fulton", is centered on the page. The signature is written in a cursive, flowing style.

B. Sue Fulton
Chair and Chief Administrator