

Expiration Date: July 30, 2021.

**Summary of Public Comment and Agency Response:**

The official comment period ended June 6, 2014. **The Division on Civil Rights received no comments.**

**Federal Standards Statement**

A Federal standards analysis is not required because the rules are intended to clarify and interpret the New Jersey Family Leave Act (NJFLA), and are not intended to implement or comply with any program established under Federal law or under a State statute that incorporates or refers to Federal law, standards, or requirements. The Federal Family and Medical Leave Act (FMLA) allows eligible employees of a covered employer to take up to 12 weeks of job-protected leave in any 12-month period. Under the FMLA, leave may be taken to care for a newborn or newly adopted child, for placement of a child with the employee for adoption or foster care, to care for a family member with a serious health condition, or because the employee’s own serious health condition makes the employee unable to perform the functions of his or her job. To the extent that the rules readopted with amendments provide rights or obligations that exceed similar provisions in Federal law, the NJFLA mandates such provisions.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 13:14.

**Full text** of the adopted amendments follows:

**SUBCHAPTER 1. GENERAL PROVISIONS**

**13:14-1.2 Definitions**

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

...  
“Child,” for the purpose of determining whether an employee is eligible for family leave because of such employee’s parental status, means a child as defined in the Act to whom such employee is a biological parent, adoptive parent, foster parent, resource family parent, step-parent, or legal guardian, or has a “parent-child relationship” with a child as defined in N.J.S.A. 34:11B-3, or has sole or joint legal or physical custody, care, guardianship, or visitation with a child.

...  
“Eligible employee” means any individual employed by the same employer for 12 months or more, who has worked 1,000 or more base hours during the preceding 12 month period. An employee is considered to be employed in the State of New Jersey if:

1.-2. (No change.)

“Employer” means an employer as defined in the Act, which employs 50 or more employees, whether employed in New Jersey or not, for each working day during each of 20 or more calendar workweeks in the then current or immediately preceding calendar year. “Employer” includes the State, any political subdivision thereof, and all public offices, agencies, boards, or bodies, regardless of whether that government entity employs 50 or more employees.

“Family member” means a child, parent, spouse, or partner in a civil union.

...  
“Intermittent leave” means leave due to a single qualifying reason (the serious health condition of a specific family member or the birth or placement for adoption of a child), taken in separate periods of time, where each period of leave is at least one workweek.

“Parent” means a person who is the biological parent, adoptive parent, resource family parent, step-parent, parent-in-law, or legal guardian, having a “parent-child relationship” with a child as defined in N.J.S.A. 34:11B-3, or having sole or joint legal or physical custody, care, guardianship, or visitation with a child.

“Reduced leave schedule” means leave due to a single qualifying reason (the serious health condition of a specific family member or the birth or placement for adoption of a child), that is scheduled for fewer than an employee’s usual number of hours worked per workweek, but not for fewer than an employee’s usual number of hours worked per workday, unless agreed to by the employee and the employer.

“Serious health condition” means an illness, injury, impairment, or physical or mental condition which requires:

1.-2. (No change.)

As used in this definition, “continuing medical treatment or continuing supervision by a health care provider” means:

1.-4. (No change.)

5. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).

**13:14-1.4 Terms of leave**

(a) Family leave may be taken for up to 12 weeks within any 24-month period. The leave may be paid, unpaid, or a combination of paid and unpaid. The employee who requests the leave must provide the employer with notice no later than 30 days prior to the commencement of the leave, except where emergent circumstances warrant shorter notice.

(b)-(d) (No change.)

**13:14-1.10 Certification by an employee or health care provider**

(a) (No change.)

(b) An employer may require that any period of family leave be supported by certification issued by a health care provider.

1. Where the certification is for the serious health condition of a family member of the employee, the certification shall be sufficient if it states the approximate date on which the serious health condition commenced, the probable duration of the condition and the medical facts within the provider’s knowledge showing that the family member’s health condition meets the criteria of a serious health condition.

2.-3. (No change.)

(c) (No change.)

**13:14-1.14 Notice to employees**

(a) Employers covered under the Act shall display the official Family Leave Act poster of the Division on Civil Rights in accordance with N.J.A.C. 13:8-2.2. The poster is available for printing from the Division’s website, [www.njcivilrights.gov](http://www.njcivilrights.gov).

(b) If an employer covered under the Act maintains written guidance to employees concerning employee benefits or leave rights, such as in an employee handbook, information concerning leave under the Act and employee obligations under the Act must be included in the handbook or other document. If an employer does not have written policies, manuals, or handbooks describing employee benefits and leave provisions, the employer shall provide written guidance to each of its employees concerning all the employee’s rights and obligations under the Act. Employers may duplicate and provide its employees a copy of the NJFLA Fact Sheet available on the Division’s website, [www.njcivilrights.gov](http://www.njcivilrights.gov), to provide such guidance.

**(a)**

**DIVISION OF STATE POLICE**

**Motor Vehicle Race Track Rules**

**Readoption with Amendments: N.J.A.C. 13:62**

**Adopted Repeals and New Rules: N.J.A.C. 13:62-5.16, 5.17, 5.18, 5.19, 5.23, 5.25, 5.26, 5.27, and 5.28**

**Adopted Repeals: N.J.A.C. 13:62-5.29, 5.32, 9.7, and 9.8**

**Adopted New Rules: N.J.A.C. 13:62-3.15, 3A, 3B, and 9A**

Proposed: March 3, 2014, at 46 N.J.R. 422(a).

Adopted: July 7, 2014, by Joseph R. Fuentes, Superintendent,  
Division of State Police.  
Filed: August 1, 2014, as R.2014 d.135, **with substantial changes**  
not requiring additional public notice and comment (see N.J.A.C.  
1:30-6.3).  
Authority: N.J.S.A. 5:7-8 et seq. and Attorney General Executive  
Directive 1982-2.  
Effective Dates: August 1, 2014, Readoption;  
September 2, 2014, Amendments, New Rules, and  
Repeals.  
Expiration Date: August 1, 2021.

**Summary of Public Comments and Agency Responses:**

The Superintendent received written comments from the following  
individuals or representatives of organizations:

Terry Hanushek, Area 2 Director, Sports Car Club of America (SCCA)

**N.J.A.C. 13:62-3B.5**

COMMENT: The proposed new rules for autocross state that a driver  
must be at least 17 years old. The SCCA national rules state that a driver  
must have a currently valid automobile driver's license, which may be  
lower than the notice of proposal. I suggest that the wording of N.J.A.C.  
13:62-3B.5 be changed to read: "All drivers shall meet the minimum  
standards required by the sanctioning organization and possess a  
currently valid automobile driver's license."

RESPONSE: The Division agrees with the commenter and will change  
the rule on adoption to state that all drivers need to meet the sanctioning  
organization's minimum standards and have a current, valid driver's  
license, removing the age requirement. This change is made to allow out-  
of-State drivers under the age of 17, who possess a valid driver's license  
from their respective state to participate in autocross events. Leaving the  
17-year-old requirement is inconsistent with N.J.S.A. 39:3-17 (Touring  
privileges of nonresident drivers), which allows any nonresident who  
possesses a valid license issued by his or her resident state to operate a  
motor vehicle in New Jersey. There is no safety concern, as long as the  
person has a valid driver's license from another state.

**N.J.A.C. 13:62-3B.6**

COMMENT: The commenter requested a change to the helmets  
standards. The proposed rule states that drivers must wear helmets  
conforming to the Snell SA2010 standard. SCCA national rules permit  
the latest and two previous versions of the Snell standards as well as  
helmets meeting SFI of British Standards Institute specifications. They  
also permit the use of motorcycle and "karting" helmets. The standards  
acceptable to SCCA are currently Snell SA2010, SAH2010, SA2005,  
SA2000, M2010, M2005, M2000, K2010, K2005, and K98. SFI  
Foundation 31.1, 41.1, 31.1A, 31.2A, 41.1A, 41.2A, and BSI BS6658-85  
type A/FR. I believe that it is reasonable to accept Motorcycle (M) and  
Karting (K) helmets since the primary difference between them and the  
Special Application (SA) helmets is fire retardancy, which is not a  
problem for this single car activity. On the Snell Memorial Foundation  
web site multiple versions of the standards are considered current (that is,  
SA2010, SA2005, K2010, and K2005). I suggest the wording of N.J.A.C.  
13:62-3B.6 be changed to read: "All drivers shall wear a properly secured  
helmet, which meets or exceeds current Snell Memorial Foundation  
Testing Standards (SA2010, SA2005, M2010, K2010, and K2005) and  
current SFI Foundation standards (31.1 and 41.1), which are incorporated  
herein by reference, as amended and supplemented, which has not  
reached the expiration date established by the Snell Memorial Foundation  
or the SFI Foundation at the time of the event. The standards are  
available from the Snell Memorial Foundation, 3628 Madison Avenue,  
Suite 11, North Highlands, CA 95660 and the SFI Foundation, Inc.,  
15708 Pomerado Road, Poway, CA 92064. The use of open face helmets  
is permitted."

RESPONSE: The Division agrees with the commenter. However,  
because the requested change involves adopting different standards than  
the one proposed, this change cannot be done on adoption. Additional  
notice and opportunity for public comment are necessary. The Division  
will adopt the rule as proposed and propose an amendment in a new  
rulemaking proposal.

**N.J.A.C. 13:62-3B.8**

COMMENT: The commenter generally objects to the exclusion of  
passengers except during training or non-competitive activities. SCCA  
national rules permit a passenger with specific restrictions that the  
passenger be not younger than 12 years old and that a properly fitted  
seatbelt and helmet be used. Normally, the passenger is a student riding  
with an instructor or an instructor riding with a student. Passengers at  
times may be given an introduction to the sport this way. This instruction  
increases the proficiency and enjoyment of the participants. Autocross  
events are run at highway speeds. There is no increased hazard created by  
the passenger. I suggest that N.J.A.C. 13:62-3B.8 be changed to read: "A  
single passenger is permitted if the passenger is not younger than 12  
years old and is using a properly fitted seatbelt and helmet."

RESPONSE: The Division disagrees with the commenter that the  
SCCA standard provides adequate safety for passengers as young as 12.  
Under the rule as proposed, passengers are allowed in vehicles during  
racing events or practice for instructional purposes. These "students" are  
permitted to ride in the vehicle to acclimate themselves with the course  
under the instruction of a certified instructor or when they are  
participating in a driving school. Anyone who participates in a driving  
school or racing event must sign a liability waiver and a minor consent  
form if they are under the age of 18. Racing is an inherently dangerous  
sport and minors under the age of 16 are not even allowed in the pit area,  
let alone to ride as a passenger in a race. Children should only be allowed  
in an area designated for spectators while accompanied by a parent.  
These autocross events are set up in parking lots with no barrier  
protection or fencing. They are temporary courses in which the  
participating vehicles often run off course or spin out of control. It would  
be impossible for the State to evaluate the maturity level of every child  
attending autocross events to determine if they are mature enough to  
understand the dangers associated with racing. There are many hazards  
associated with racing, and although some forms of racing (motocross  
and karting) allow for minors to participate, autocross is a sport designed  
for persons who possess valid driver's licenses and have the capacity to  
understand the dangers associated with their sport.

Public comments from Michael Allenbaugh, Director of Motorsports  
Activities, New Jersey Motorsports Park:

**N.J.A.C. 13:62-1.1**

COMMENT: The commenter objects to the definition of "hot track"  
and proposed changing the definition to vehicles travelling in excess of  
65 mph defining a hot track.

RESPONSE: The Division disagrees with the commenter and will not  
make the requested change due to safety reasons. The Division maintains  
that vehicles are inherently dangerous at any speed.

**N.J.A.C. 13:62-2.8(k)**

COMMENT: The commenter suggested a change to clothing  
restrictions for track staff working within the pit area during a race or  
practice event.

RESPONSE: The current rule, which was proposed to be readopted  
without change, requires that track staff wear long pants while working in  
a race or practice event. The Division agrees with the commenter that  
staff should be allowed to wear shorts in the pit, except during fueling  
activities. Therefore, the Division will change the rule upon adoption to  
permit track staff to wear shorts in the pit area, except those participating  
in fueling activities.

**N.J.A.C. 13:62-2.8(l)**

COMMENT: The commenter requested a change to the identification  
requirements for track staff to allow for an ID tag in lieu of uniforms and  
other identifiers.

RESPONSE: The Division disagrees with the commenter due to safety  
concerns. The rule currently reads, "Track staff shall wear brightly  
colored safety vests to be easily identified, or other identifying uniforms,  
while working a race or practice event." The Division maintains that an  
ID tag, if worn alone, is too small to be easily seen.

**N.J.A.C. 13:62-2.13(a)**

COMMENT: The commenter objects to the licensee being required to arrange for the inspection of each participating vehicle prior to the event and suggests requiring the sanctioning organization to arrange for inspections.

RESPONSE: The Division disagrees with the commenter and will not make the suggested change. The licensee remains primarily responsible for the inspection of each participating vehicle. However, the Division points out that the licensee may arrange for vehicle inspections to be done by the sanctioning body if the licensee chooses to do so. The Division does not regulate sanctioning bodies, it regulates the licensees who operate the motor vehicle race tracks.

**N.J.A.C. 13:62-3.11(a)**

COMMENT: The commenter states that the proposed changes to this subsection were prompted by a request from New Jersey Motorsports Park (NJMP) to allow non-driver participants to wear shorts in the pit lane. For the last several years, NJMP has requested a rule modification allowing participants to wear shorts in pit lane during motorcycle racing events. That rule modification has been granted by the State Police each and every time it was requested. In that rule modification, there is no distinction between "pit lane" and "behind pit lane wall." The way that it reads now, no shorts are allowed beyond the pit wall. The commenter suggests the subsection be changed to allow shorts in any part of the pit lane, except for any crew members fueling vehicles.

RESPONSE: The Division disagrees with the commenter. Currently, shorts are allowed to be worn in the pit lane during some racing events. Not all racing events or occasions, such as refueling, warrant the permissibility and/or safety of wearing shorts. Further, pursuant to N.J.A.C. 13:62-2.5, rule modifications are permitted on a case-by-case basis, to give the participants and the State Police an opportunity to evaluate each request and assure public safety.

**N.J.A.C. 13:62-3.15(a) and (b)**

COMMENT: The commenter objects to the term "unsupervised" in subsection (a) as a term for requiring and monitoring parental supervision among visitors to the Motor Sports Park. The commenter maintains the term "unsupervised" is an arbitrary term at best. Requiring a licensed racing facility to monitor parental supervision amongst its visitors will create a serious negative social and financial impact on the facility. As a licensed facility, NJMP will be forced to create and impose our own definition of "supervised" upon our guests. To enforce this requirement, NJMP will need to increase our security staff at a significant cost. Imposing this requirement on our guests will surely cause a negative social impact on the many families that visit our facility. Furthermore, without a clear definition of what is considered a "supervised" child, this subsection, as written, has the potential to leave New Jersey Motorsports Park open to crippling litigation that could possibly hinge on a judge's or jury's opinion of what defines a "supervised" child. NJMP respectfully requests that a clear definition of the term "supervised" be added to this subsection, or that this subsection be removed from the subchapter. The commenter further objects to the arbitrary nature of the term "accompanied" in subsection (b) and requests this subsection be removed from the subchapter.

RESPONSE: In light of the comment, the Division will make a change on adoption. Subsection (a) is changed to read: "Spectators of any age are permitted in the paddock area. Under no circumstances shall a child under the age of 16 be unaccompanied by a credentialed adult in the paddock." The Division defines "accompanied" as "to go along or be in company with." This term is not arbitrary and directly relates to safety. No change will be made to subsection (b).

**N.J.A.C. 13:62-3.15(c), (d), and (e)**

COMMENT: The commenter states that subsections (d) and (e) are contradictory to subsection (c). Subsection (c) states that persons 16 years of age are permitted in the hot pit area while the track is hot, provided they have proper credentials, and are accompanied by a credentialed adult. Subsections (d) and (e) state that no person under the age of 18 is allowed over the wall onto the hot pit lane. This also contradicts N.J.A.C. 13:62-2.8(d)1, which states participating pit crew members are aged 16

and above. In the past, crew members 16 and above were permitted to go over the pit wall to service their teams car or motorcycle. There are many race teams that participate in events at New Jersey Motorsports Park that already have crew members under the age of 18. The age requirements in subsections (d) and (e) will create a negative social and economic impact on a number of race teams, many of which are family teams. When Chapter 62 rules allow for race drivers and riders of any age as dictated by the sanctioning race organization, we feel that restricting the age limit of pit crew members allowed over the wall to 18 years of age is unreasonable. We respectfully request that the age limit for crew members in hot pit lane remain at 16 years and above across the board.

New Jersey Motorsports Park can boast a very positive safety record both on our race tracks and in our paddock and garage areas over its six-year history of hosting many levels of pro and amateur racing events, as well as many levels of automobile driver and motorcycle rider educational events. Given the fact that NJMP is the only fully functioning licensed road racing facility with a defined paddock, garage area, and a defined pit lane in the State of New Jersey, we believe that N.J.A.C. 13:62-3.15 needs much more research, discussion, and refinement before being added to Chapter 62, if at all.

RESPONSE: The Division will not make any changes to subsection (c). There is no inconsistency with N.J.A.C. 13:62-2.8(d). N.J.A.C. 13:62-3.15(d) and (e) are not inconsistent with subsection (c). Under subsection (d), a credentialed 16 year old is allowed in the hot pit area during an automobile race, but is not allowed over the pit wall to work on vehicles while the track is hot. Under subsection (e), a credentialed 16 year old participating in a motorcycle race is allowed over the pit wall during cautions or when the track is not under a green flag. Motorcycle pits are usually located in the hot pit area, whereas automobile pits are located in the paddock area, which is why they are treated differently. The Division is adopting subsections (d) and (e) as proposed.

**N.J.A.C. 13:62-3B.6**

COMMENT: The commenter objects to the helmet standards requirement for autocross competitions. The commenter explains these courses are designed to keep car speeds at highway speeds or less, reaching highway speeds for only very brief periods of time on few occasions during the running of the course. Requiring the use of Snell SA rated helmets for an activity that is much less dangerous than riding a motorcycle on any public highway is excessive. Many autocross participants are "grassroots" motorsports enthusiasts with limited budgets to enjoy their sport. SA rated helmets on the average cost significantly more than M rated helmets that have been allowed for use in autocross events in New Jersey in the past. Requiring these participants on a budget to purchase new helmets that cost hundreds of dollars more than what has been allowed in the past will have a significant financial impact on those participants as well as a possible negative impact on the participation level for many clubs that host autocross events. Furthermore, this requirement is more severe than N.J.A.C. 13:62-3.6(b), which allows for M rated helmets for events where fire ratings are not required, including high speed driver education lapping days on full size road courses.

RESPONSE: As explained in the response to the comment from SCCA above regarding this section, this change cannot be made upon adoption, but will be the subject of a future rulemaking.

**N.J.A.C. 13:62-3B.6**

COMMENT: The commenter objects to the prohibition of passengers in autocross events. The commenter maintains that carrying an instructor in the passenger seat is a common occurrence during autocross events, much as it is a common practice during high speed driver education lapping events on full road courses. Allowing autocross participants to carry instructors will create a safer environment, particularly for beginner to intermediate level drivers, and will enhance the sport as a whole.

RESPONSE: For the reasons stated in response to the comment from SCCA above in regards to this section, the Division will not make any changes to this rule on adoption.

**Summary of Agency-Initiated Change:****N.J.A.C. 13:62-5.22**

The Division is making a change to helmet requirements for drag racing events. Currently, the requirement is that all drivers must wear Snell Memorial Foundation helmets, regardless of elapsed time in quarter mile races. The Division believes that drivers of vehicles running 14.0 seconds or slower should be allowed to wear D.O.T. approved ¾ helmets. This change is being made due to an oversight by the Division. All three drag strips in New Jersey currently utilize D.O.T. standard ¾ helmets as their rental helmet for participants in vehicles running slower than 14.0 seconds. The Division does not intend to prohibit their use for that purpose and is making the change to reflect actual practice and to avoid an unintended consequence. The Division is incorporating by reference, as amended and supplemented, the U.S. Department of Transportation (D.O.T.) Federal Motor Vehicle Safety Standards 218, Motorcycle Helmets, into the rule. This change does not significantly alter the scope of the rule and can, therefore, be made on adoption without additional notice and public comment.

**Federal Standards Statement**

A Federal standards analysis is not required as none of the rules readopted with amendments, new rules, and repeals are the subject of any Federal standards.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 13:62.

**Full text** of the adopted amendments and new rules follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks **\*[thus]\***):

## SUBCHAPTER 1. DEFINITIONS

## 13:62-1.1 Definitions

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

“Advanced staging area” means the restricted area beyond the primary staging area, where cars are paired up and are awaiting immediate advancement to the starting tree and racing surface.

“Antique tractor” means a full-size farming vehicle, model year 1959 or earlier, either stock or modified, powered by a gasoline or diesel engine, originally designed, mass-produced, and sold commercially through a dealer network to pull ground engaging equipment on a farm.

“Autocross” means a timed competition where drivers navigate, one at a time, through a temporary course marked by traffic cones or other temporary markers, rather than racing on a track with multiple other cars.

“Drifting” means a driving technique or motorsport where the driver intentionally oversteers, causing loss of traction in the rear wheels through turns, while maintaining vehicle control and a high exit speed.

“Garage” means any building or structure where race vehicles are stored, prepared, or serviced for race events.

“Garden tractor” means a farming vehicle lower than 42 inches when measured at the hood, either stock or modified, powered by a gasoline or diesel engine originally designed, mass-produced, and sold commercially through a dealer network to pull ground engaging equipment in a garden.

“Hot pit” means that portion of a road racing venue, adjacent to the track, where vehicles exit the racing surface for fuel, tires, adjustments, and any other pit stop repairs during on-track sessions.

“Hot track” means the track or other racing area is in use by vehicles being operated.

“Lawnmower” means a vehicle either stock or modified, powered by a gasoline engine originally designed, mass-produced, and sold commercially through a dealer network to mow residential lawns.

“Paddock” means the area at a road racing venue where race team transporters are parked, and race teams prepare vehicles prior to on-track sessions.

“Primary staging area” means the extension of the pit area at a drag strip venue where participating vehicles are staged pending advancement to the “advanced staging area.”

“Quarter midgets” means a competition vehicle scaled down to one-fourth the size of midget racers powered by a lawn mower engine and driven by children ages five-16.

“Tractor” means a full-size farming vehicle, either stock or modified, powered by a gasoline or diesel engine, originally designed, mass-produced, and sold commercially through a dealer network to pull ground engaging equipment on a farm.

“Vintage race car” means any original, purpose built race car, which is over 20 years old, or a reproduction that does conform to the provisions set forth in this chapter.

## SUBCHAPTER 2. MOTOR VEHICLE RACE TRACK LICENSE REQUIREMENTS AND LICENSEE RESPONSIBILITIES: ALL RACING EVENTS

## 13:62-2.8 Pit credentials

(a)-(c) (No change.)

(d) The issuance of pit credentials shall be limited to:

1. Participating pit crew members age 16 and above, with a maximum of eight, unless otherwise stated by the participating race sanctioning body rulebook, which includes the driver;

2.-5. (No change.)

(e)-(h) (No change.)

(i) (Reserved)

(j) (No change.)

(k) Track staff, working **\*[on the track or]\*** in the pit, **\*[shall]\* *may*** wear **\*[long pants, at all times]\* *shorts, except that long pants shall be worn by track staff on the track or participating in fueling\****, while working a race or practice event.

(l)-(m) (No change.)

## 13:62-2.15 Refueling

(a) (No change.)

(b) The licensee shall not permit smoking in any area where fuel is being transferred or stored. The licensee shall post a sign at all entrances of any such area stating “NO SMOKING”.

(c) (No change.)

## 13:62-2.19 Firefighting equipment

(a)-(b) (No change.)

(c) All licensees that are licensed for drag racing, oval racing and/or road course racing who maintain their own incipient fire brigade shall provide for track fire fighters, pit area fire fighters and certain rescue personnel who actively engage in or are exposed to the hazards of firefighting, protective garments.

1. The licensee shall not permit any race, practice or exhibition of driving skill to be conducted unless the following personal protective equipment is made ready and available. Employees assigned to work as incipient fire brigade members shall be provided by the licensee, at a minimum the following personal protective clothing:

i. Body protection including a fire resistant coat and trousers; protective footwear, including safety boots providing against penetration; and hand protection to include protective gloves providing against cut, puncture and heat penetration meeting or exceeding the minimum personal protective clothing requirements set forth by the Occupational Safety and Health Administration at 29 CFR 1910.156(e) (July 1, 2008) for Personal Protective Clothing, incorporated herein by reference, as amended and supplemented and available at the U.S. Department of Labor website located at <http://www.osha.gov> or, meeting or exceeding SFI Specification 3.2A/5 (March 27, 2013), testing standard for fire resistance set forth by the SFI Foundation 15708 Pomerado Road, Suite N208, Poway, CA 92064 incorporated by reference as amended and

supplemented and available at the SFI website at [www.sfifoundation.com](http://www.sfifoundation.com); and

ii. Head, eye, face protection, including a Snell rated or DOT-approved full-face helmet with face shield, which meets or exceeds Snell Memorial Foundation Testing Standard SA (2010), incorporated herein by reference, as amended and supplemented, which has not reached the expiration date established by the Snell Memorial Foundation at the time of the event. The standards are available from the Snell Memorial Foundation, 3628 Madison Avenue, Suite 11, North Highlands, CA 95660, or an open face helmet used in combination with a Nomex or similar fire retardant material head sock and goggles to provide impact and thermal protection.

### SUBCHAPTER 3. SAFETY REQUIREMENTS FOR VEHICLES AND PERSONNEL: ROAD RACING AND HIGH PERFORMANCE DRIVING SCHOOLS

#### 13:62-3.6 Helmets and eye protection

(a) All drivers shall wear a properly secured, full face helmet, with face shield, which meets or exceeds Snell Memorial Foundation Testing Standard SA (2010), incorporated herein by reference, as amended and supplemented, which has not reached the expiration date established by the Snell Memorial Foundation at the time of the event. The standards are available from the Snell Memorial Foundation, 3628 Madison Avenue, Suite 11, North Highlands, CA 95660. A Nomex, or similar fire-resistant head sock is recommended to be worn in conjunction with the use of the full face helmet with shield.

(b)-(c) (No change.)

(d) Helmets shall not be required under certain instructional and guided tour events where the maximum speed on the track shall not exceed 65 miles per hour.

(e) (No change.)

(f) Drivers and instructors participating in driver's education and instructional track events in factory stock vehicles equipped with air bags may utilize open faced helmets.

#### 13:62-3.7 Safety belts, shoulder harness, and crotch belt

(a) (No change.)

(b) Safety belts for driving schools, time trials, lapping days, and promotional and tour events must meet the standards required by the sanctioning body or event organizer. At a minimum, original vehicle equipment DOT FMVSS 208, incorporated herein by reference, as amended and supplemented, and available at <http://www.nhtsa.dot.gov/cars/rules/import/FMVSS/index.html>, seat belts or DOT FMVSS 209, incorporated herein by reference, as amended and supplemented, and available at <http://www.nhtsa.dot.gov/cars/rules/import/FMVSS/index.html>, aftermarket seat belts shall be required.

(c) All vehicles (except motorcycles) participating in racing, racing event practice, qualifying or testing shall require a minimum of a five-point safety belt for each occupant meeting one of the following standards:

1. SFI Specification 16.1 (May 1, 2008) or SFI Specification 16.5 (June 5, 2012), incorporated herein by reference, as amended and supplemented, and available at <http://www.sfifoundation.com>, seat belts shall be valid until December 31st of the second year after the date of manufacture punched or indicated on the SFI tag. There shall be one original tag attached to one of the two shoulder belts, one original tag attached to one of the lap belts and a third original tag attached to the crotch belt.

2. FIA 8853/98 (updated September 28, 2012), incorporated herein by reference, as amended and supplemented, and available at <http://www.fia.com/sport/Regulations/standregs.html>, seat belts shall be valid for five years from the year of manufacture. Belts are stamped or printed with an expiration year. FIA seat belts expire on December 31 of the year printed or stamped on the FIA tag. FIA tags are located on each leg of the shoulder belt and lap belt, and on one leg of the crotch strap.

(d)-(f) (No change.)

#### 13:62-3.9 Inspection of vehicles

(a) Vehicles participating in an event by a sanctioning organization must meet all technical guidelines set forth by that organization. Road

racing cars defined as "vintage race cars," not meeting the technical and safety requirements of this subchapter, shall be restricted to slow speed parade lapping only. All such "vintage race cars" are prohibited from racing, practicing, qualifying, or in any other way competing at speed on a road racing circuit.

(b) (No change.)

#### 13:62-3.11 Clothing requirements; other than drivers

(a) Tank tops, shorts, and any kind of sandals or open-toed shoes are prohibited from the pit lane or any part of the race track during any part of an event where vehicles are active in the pit lane or on the race track. Authorized and credentialed persons are permitted to wear the above listed items behind the pit lane wall.

(b)-(c) (No change.)

(d) Crew members fueling vehicles in pit lane during racing shall wear a Snell SA Fire-rated helmet meeting Snell Memorial Foundation Testing Standards specified in N.J.A.C. 13:62-3.6(a), (b), and (c), National Highway Safety Transportation Association Federal Motor Vehicle Safety Standard 218 (Code of Federal Register, Title 49, Volume 5, Part 571, Section 218, October 2003) or ANSI Z-90.1 standards (2010), incorporated herein by reference, as amended and supplemented, or a fire-resistant balaclava as an alternative. ANSI standards are available from the American National Standards Institute, 25 West 43rd Street, New York, NY 10036. National Highway Transportation Safety Administration standards are available at <http://www.nhtsa.dot.gov/cars/rules/import/FMVSS/index.html>.

#### 13:62-3.13 Rollover bars

(a) Rollover protection is required for all open cockpit or convertible vehicles. Roll bar padding meeting SFI Specification 45.1 is mandatory anywhere a driver's helmet or body may come in contact with roll bar components. SFI Specification 45.1 (August 11, 2005), is incorporated herein by reference, as amended and supplemented and available at <http://www.sfifoundation.com>. SFI roll bar padding standards are available from the SFI Foundation, Inc., 15708 Pomerado Road, Suite N208, Poway, CA 92064.

(b)-(c) (No change.)

#### 13:62-3.14 Driver requirements

(a)-(f) (No change.)

(g) Head and neck restraint meeting SFI Specification 38.1 standard (September 23, 2011), which is incorporated herein by reference, as amended and supplemented, and available at <http://www.sfifoundation.com>, is strongly recommended for drivers of vehicles equipped with proper seats, headrests, and seat belts.

(h) (No change.)

#### 13:62-3.15 Persons permitted in the paddock, garage, and hot pit areas.

(a) Spectators of any age are permitted in the paddock area. Under no circumstances shall a child under the age of 16 be \*[unsupervised]\* **\*unaccompanied by a credentialed adult\*** in the paddock.

(b) Properly credentialed persons are permitted in the garage area. Persons under 16 years of age shall be accompanied by a credentialed adult.

(c) Race officials, crew members, and all other credentialed persons 18 years of age or older are permitted in the hot pit area while there is a hot track. Persons 16 years of age, but under 18 years of age, are permitted in the hot pit area while there is a hot track, provided they possess proper credentials and are accompanied by a credentialed adult.

(d) During automobile racing events, no person under 18 years of age, other than the driver, shall be allowed over the pit wall onto the hot pit lane while the track is under a green flag condition.

(e) During motorcycle racing events, no person under 18 years of age, other than the rider, shall be allowed over the pit wall onto the hot pit lane while the track is under a green flag condition.

### SUBCHAPTER 3A. DRIFTING

#### 13:62-3A.1 Licensed facilities

Automobile drifting events shall only take place in licensed facilities. Sanctioned and unsanctioned events shall be conducted in a manner no less restrictive than permitted under the rules in this chapter.

## 13:62-3A.2 Track construction

(a) Design and construction of drifting race courses must be approved by the Superintendent or designee prior to the racing event. Safety features such as, but not limited to, fences, crash protection, light or flagmen positions, spectator seating, entrances and exits, pit facility locations, and other physical factors affecting the safety of spectators and participants may be required for approval depending on the terrain and location of the race course, at the discretion of the Superintendent or designee.

(b) A sketch or sketches of the track and associated areas shall be provided as near to scale as practicable indicating the location of required safety features.

(c) The pit area shall be located away from the race track and shall be configured so that the pit entrance and pit exit are separate.

## 13:62-3A.3 Fences

(a) All fences installed for the purpose of limiting spectator areas shall be constructed of welded wire or chain link and shall be at least four feet in height and so constructed as not to be easily lifted, climbed over, or moved aside.

(b) All spectator fencing shall be erected a distance of at least 25 feet beyond the track surface.

## 13:62-3A.4 Maximum protection

All hubrails, fences, stands, and buildings must be constructed and maintained so as to afford maximum protection for spectators.

## 13:62-3A.5 Flagmen

(a) Licensees shall make use of a minimum of two flagmen at all times when more than five vehicles occupy the track.

(b) Flagmen shall be positioned so as to be visible to drivers entering each turn on the track or course or in a manner sufficient to notify the driver of any impending danger.

(c) Flag stations shall have adequate protection for the flagmen.

## 13:62-3A.6 Driver requirement for racing

(a) All drivers shall be of the minimum age to meet the standards required by the sanctioning organization and be at least 17 years of age with a valid driver's license, if there is no sanctioning organization.

(b) All drivers of non-street legal drift vehicles during a race or practice shall wear a minimum of two layers of fire-resistant material covering their body, legs, and arms.

(c) It is recommended that all drivers wear fire-resistant gloves, shoes, and socks.

(d) Drivers of street legal cars are not required to wear fire-resistant clothing, but it is recommended. If fire-resistant clothing is not worn, closed-toe shoes, long pants, and a long-sleeve shirt are required.

(e) Drivers shall be secured in a safety belt, harness, and crotch belt as required under N.J.A.C. 13:62-3A.7 and remain inside the vehicle at all times while on the track.

## 13:62-3A.7 Safety belts

(a) Safety belts are required at all times for any vehicles, and any occupant of any vehicle, allowed on any portion of the race track.

(b) All vehicles participating in a drifting race, practice, qualifying, or testing event shall require a minimum of a five-point safety belt for each occupant meeting one of the following standards:

1. SFI Specification 16.1 (May 1, 2008) or SFI Specification 16.5 (June 5, 2012), which is incorporated herein by reference, as amended and supplemented and available at <http://www.sfifoundation.com>, seat belts shall be valid until December 31st of the second year after the date of manufacture punched or indicated on the SFI tag. There shall be one original tag attached to one of the two shoulder belts, one original tag attached to one of the lap belts, and a third original tag attached to the crotch belt.

2. FIA 8853/98 (updated September 28, 2012), which is incorporated herein by reference, as amended and supplemented and available at <http://www.fia.com/sport/Regulations/standregs.html>, seat belts shall be valid for five years from the year of manufacture. Belts are stamped or printed with an expiration year. FIA seat belts expire on December 31 of the year printed or stamped on the FIA tag. FIA tags are located on each leg of the shoulder belt and lap belt and on one leg of the crotch strap.

(c) Safety belts must be installed according to the manufacturer's recommendations and to the guidelines of the sanctioning organization.

(d) Four-, five-, and six-point seat belts shall not be used in conjunction with any original equipment vehicle seat that has an integrated headrest without a direct pass-through for proper installation of a double shoulder belt.

(e) Drivers of street legal vehicles shall be permitted to make use of the original equipment manufacturer's (OEM) seat belts.

(f) Street legal vehicles equipped with roll bars or a roll cage shall require a minimum five-point safety belt for each occupant.

## 13:62-3A.8 Helmets

All drivers shall wear a properly secured, full face helmet, with face shield, which meets or exceeds Snell Memorial Foundation Testing Standards SA (2010), which is incorporated by reference herein, as may be amended and supplemented, which has not reached the expiration date established by the Snell Memorial Foundation at the time of the event. The standards are available from the Snell Memorial Foundation, 3628 Madison Avenue, Suite 11, North Highlands, CA 95660. The use of open face helmets and goggles shall be prohibited.

## 13:62-3A.9 Fueling and fire suppression

(a) Fuel shall only be stored and dispensed from approved containers in designated areas.

(b) Designated fueling areas shall be equipped with a minimum of two 10 lb B:C or greater fire extinguishers.

## 13:62-3A.10 Ambulances and certified EMTs

(a) The licensee shall not permit any race, practice, or exhibition of driving skill unless there is available for immediate use at the licensed location at least one vehicle suitable for ambulance purposes, together with two certified EMTs.

(b) The licensee shall ensure that a driver of any racing event involved in an accident, which results in any noticeable injury to the driver is checked by a certified EMTs on duty and cleared to participate before he or she returns to the racing event.

1. If the driver refuses medical attention, he or she must sign a waiver stating so.

2. The licensee shall not allow the driver to re-enter the race event if the driver refuses to sign the medical waiver or medical attention is recommended.

## 13:62-3A.11 Rollover bars

(a) Rollover protection is required for all open cockpit or convertible vehicles. Roll bar padding meeting SFI Specification 45.1 is mandatory anywhere a driver's helmet or body may come in contact with the roll bar components. SFI Specification 45.1 (August 11, 2005), which is incorporated herein by reference, as amended and supplemented and available at <http://www.sfifoundation.com>. SFI roll bar padding standards are available from the SFI Foundation, Inc., 15708 Pomerado Road, Suite N208, Poway, CA 92064.

(b) Rollover bars installed in a street legal or non-street legal vehicle shall conform and adhere to the specifications set forth in the 2014 Sports Car Club of America (SCCA) General Competition Rules and Specifications, specifically Chapter 9.4, Roll Cages for GT and Production Based Cars, which is incorporated herein by reference, as amended and supplemented and available at <http://www.scca.com>. Roll bar specifications are available from the SCCA, Club Racing Department, 6700 SW Topeka Boulevard, Building 300, Topeka, KS 66619.

(c) Rollover bars shall be plainly visible with the exception of built-in or integral rollover bars.

1. Vehicles with built-in or integral rollover bars shall maintain and provide upon request by the Superintendent or designee, the manufacturer's detailed drawing establishing the dimensions and material used.

(d) Factory provided rollover protection (production vehicles) may be used on street legal vehicles providing that the height of any vehicle occupant (with helmet) is not higher than the highest point of the factory rollover protection structure.

(e) Convertibles and open vehicles (except motorcycles) shall have a roll bar or main hoop extending beyond the helmet of any vehicle driver or instructor. Removable hardtops shall not constitute rollover protection.

## 13:62-3A.12 Number of persons in vehicle

No vehicle shall carry more than one person at any time during a race or warm-up, except during a bonafide training period or non-competitive exhibition event.

## 13:62-3A.13 Speed limits

No vehicles shall be operated in the paddock and staging areas at a speed in excess of five miles an hour.

## 13:62-3A.14 Inspection of vehicles

(a) Vehicles participating in an event by a sanctioning organization must meet all technical guidelines set forth by that organization.

(b) All vehicles to be used in a race or other type of drifting event are subject to unannounced inspection and approval at any time for compliance with this chapter at any time by the Superintendent or designee.

## SUBCHAPTER 3B. AUTOCROSS

## 13:62-3B.1 Licensed facilities

Autocross events shall only take place in licensed facilities or locations approved by the Superintendent or a designee pursuant to this chapter.

## 13:62-3B.2 Track construction

(a) Design and construction of autocross courses and/or locations must be approved by the Superintendent or designee prior to the racing event. Safety features such as, but not limited to, fences, crash protection, light or flagmen positions, spectator seating, entrances and exits, pit facility locations, and other physical factors affecting the safety of spectators and participants may be subject to approval depending on the terrain and location of the race course, at the discretion of the Superintendent or designee.

(b) A sketch or sketches of the track and associated areas shall be provided as near to scale as practicable indicating the location of required safety features.

(c) The pit area shall be located away from the race track and shall be configured so that the pit entrance and pit exit are separate.

(d) Track design shall be completed in a manner to afford maximum protection for officials and spectators.

## 13:62-3B.3 Fences

(a) All fences installed for the purpose of limiting spectator areas shall be constructed of welded wire or chain link and shall be at least four feet in height and so constructed as not to be easily lifted, climbed over, or moved aside.

(b) All spectator fencing shall be erected a distance of at least 25 feet beyond the track surface.

## 13:62-3B.4 Flagmen and track personnel

(a) Flagmen shall be positioned so as to be visible to drivers entering each turn on the track or course. While vehicles are on the course, all personnel assisting with on track activities shall be a minimum of 25 feet from the track surface.

(b) All working personnel having access to the track shall be at least 16 years age.

(c) Radio or an effective form of two-way communication between the timing station, grid, and course workers shall be utilized at all events.

## 13:62-3B.5 Driver requirement for racing

All drivers shall meet the minimum standards required by the sanctioning organization and \*[be at least 17 years of age with a]\* **\*possess a current,\*** valid driver's license **\*issued by a government entity\*.**

## 13:62-3B.6 Helmets

All drivers shall wear a properly secured helmet, which meets or exceeds Snell Memorial Foundation Testing Standards SA (2010), which is incorporated herein by reference, as amended and supplemented, which has not reached the expiration date established by the Snell Memorial Foundation at the time of the event. The standards are available from the Snell Memorial Foundation, 3628 Madison Avenue, Suite 11, North Highlands, CA 95660. The use of open face helmets is permitted.

## 13:62-3B.7 Safety belts

(a) Safety belts are required at all times for any vehicles, and any occupant of any vehicle, that is allowed on any portion of the race track.

(b) Safety belts must be installed according to the manufacturer's recommendations and to the guidelines of the sanctioning organization.

## 13:62-3B.8 Number of persons in vehicle

No vehicle shall carry more than one person at any time during a race or warm-up, except during a bonafide training period or non-competitive exhibition event.

## 13:62-3B.9 Fueling and fire suppression

(a) Fuel shall only be stored and dispensed from approved containers in designated areas.

(b) Designated fueling areas shall be equipped with a minimum of two 10 lb B:C or greater fire extinguishers.

## 13:62-3B.10 Ambulance and certified EMT

(a) The licensee shall not permit any race, practice, or exhibition of driving skill unless there is available for immediate use at the licensed location at least one vehicle suitable for ambulance purposes, together with one certified EMT. If the ambulance leaves the premises for any reason, all racing and practice activities shall be suspended until it returns, or is replaced by another suitable vehicle.

(b) The licensee shall ensure that a driver of any racing event involved in an accident, which results in any noticeable injury to the driver is checked by the certified EMT on duty and cleared to participate before he or she returns to the racing event.

1. If the driver refuses medical attention, he or she must sign a waiver stating so.

2. The licensee shall not allow the driver to re-enter the race event if the driver refuses to sign the medical waiver or medical attention is recommended.

## SUBCHAPTER 4. SAFETY REQUIREMENTS FOR VEHICLES AND PERSONNEL: OVAL RACING

## 13:62-4.1 Construction requirements

(a)-(b) (No change.)

(c) The hubrail shall consist of at least two planks of hard wood or other suitable materials, at least 10 inches in width by three inches in thickness.

1. At any oval track modified or built after March 5, 2007, the hubrail shall be constructed of metal or concrete material in accordance with New Jersey Department of Transportation Standard Roadway Construction-Traffic Control-Bridge Construction Details 2007, incorporated herein by reference, as amended and supplemented. The standard is available at <http://www.state.nj.us/transportation/eng/CADD/v8/v8RoadwayDetails/pdf/v8eRoadwayDetailsSet.pdf>. Additional state-of-the-art material shall be considered by the Superintendent or designee when documentation of such material has been properly submitted for review. All material shall be constructed as to afford maximum protection for spectators and participants.

(d)-(k) (No change.)

## 13:62-4.2 Fences

(a) (No change.)

(b) New or existing oval track facilities larger than one-quarter of a mile that, either modify the existing track circumference or change, in any manner, the dimensions of the pit area shall erect a catch fence. The catch fence shall be erected between the track and the entire pit area. The catch fence shall be a minimum of 15 feet above the hubrail and constructed and maintained so as to afford the maximum protection for pit crews.

## 13:62-4.12 Rollover bars

(a) All vehicles shall be equipped with a rollover bar of a design, construction, and quality recognized by industry standard and maintained with a view toward affording the driver maximum protection against injury. Roll bar/cage padding meeting SFI Specification 45.1 (August 11, 2005) is mandatory anywhere a driver's helmet or body may come in contact with roll bar/cage components. SFI Specification 45.1 (August

11, 2005), is incorporated herein by reference, as amended and supplemented and available at <http://www.sffoundation.com>. SFI roll bar/cage padding standards are available from the SFI Foundation, Inc., 15708 Pomerado Road, Suite N208, Poway, CA 92064.

(b)-(c) (No change.)

(d) The securing of solid weight or loose ballast material in proximity to the driver's head is prohibited. The use of hose clamps, strapping, tape, tie wraps, or any other means deemed insufficient by the Superintendent or designee, for securing weight or ballast is prohibited.

#### 13:62-4.17 Fuel tanks

(a) The use of a commercially manufactured fuel cell is mandatory in all vehicles utilizing a cell size of five gallons or more. A rubber impregnated bladder is required on all smaller scale vehicles utilizing high density composite tail tanks carrying more than five gallons including, but not limited to: 270cc and 600cc Micro Sprint cars; 410, 360, 305, and SS Sprint cars; Three Quarter Midget (TQ) cars; and SpeedSTR cars.

(b) All fuel cells shall be comprised of a steel or aluminum container, bladder, anti-surge baffling, and fill plate with check valves (vent check and fill check).

1.-2. (No change.)

3. Bladders shall be commercially manufactured of either soft rubber (rubberized fabric) or a molded cross-linked material. To prevent degradation of bladder adhesives within the fuel cell, only racing fuels that are deemed to be compatible with bladder and baffle materials and seam adhesives shall be used, in conformance with manufacturer specifications. Vehicles using elevated alcohol concentrations shall not use gasoline type fuel bladders.

4.-6. (No change.)

(c)-(g) (No change.)

#### 13:62-4.18 Fuel supply and shutoff valve

(a)-(b) (No change.)

(c) Three Quarter Midget (TQ) and 600cc Micro Sprint cars utilizing fuel injected motorcycle engines shall wire fuel pumps through the factory relay to prevent the fuel pump from running when the engine stops. Power to the fuel pump shall be interrupted if the motor is shut off while running.

#### 13:62-4.19 Refueling

(a) In all instances where refueling is permitted with the engine running, a member of the pit crew, equipped with a 10 lb B:C or greater fire extinguisher, shall be in close proximity to the fill pipe of the fuel tank.

(b)-(d) (No change.)

#### 13:62-4.20 Batteries

(a)-(c) (No change.)

(d) An external battery shutoff switch, to be located on the exterior portion of the left side inner panel, is mandatory on all modified type dirt oval cars.

#### 13:62-4.22 Tires and wheel covers

(a)-(d) (No change.)

(e) Carbon fiber wheels are prohibited.

#### 13:62-4.25 Drivers

(a) (No change.)

(b) All drivers are required to wear long sleeve fire resistant underwear and one piece fire resistant clothing covering their body, legs, and arms. Nylon covered fire suits are prohibited.

(c)-(d) (No change.)

#### 13:62-4.26 Helmets, head cushions, and head and neck restraints

(a) All drivers shall wear a properly secured, full face helmet with face shield, which meets or exceeds Snell Memorial Foundation Testing Standard SA (2010), which is incorporated herein by reference, as amended and supplemented, which has not reached the expiration date established by the Snell Memorial Foundation at the time of the event. The standards are available from the Snell Memorial Foundation, 3628 Madison Avenue, Suite 11, North Highlands, CA 95660. A Nomex, or similar fire-resistant head sock is recommended to be worn in

conjunction with the use of the full face helmet with face shield. The use of open face helmets is prohibited.

(b)-(e) (No change.)

#### 13:62-4.28 Arm restraints; window nets; rock screens

All drivers shall use arm restraints or window nets. All full size dirt oval cars shall have a rock screen of substantial welded wire or similar mesh material with maximum individual hole openings of two inches by one inch. The use of chicken wire is prohibited.

#### 13:62-4.32 Speed limits

(a)-(b) (No change.)

(c) Oval race cars defined as "vintage race cars," not meeting the technical and safety requirements of the subchapter, shall be restricted to slow speed parade lapping only. All such "vintage race cars" are prohibited from racing, practicing, qualifying, or in any other way competing at speed on an oval racing surface.

### SUBCHAPTER 5. SAFETY REQUIREMENTS FOR VEHICLES AND PERSONNEL: DRAG RACING

#### 13:62-5.1 Construction requirements

(a)-(b) (No change.)

(c) At any facility modified or built after March 5, 2007, the hubrail shall be constructed of metal or concrete material in accordance with New Jersey Department of Transportation Standard Roadway Construction-Traffic Control-Bridge Construction Details 2007, incorporated herein by reference, as amended and supplemented, available at <http://www.state.nj.us/transportation/eng/CADD/v8/v8RoadwayDetails/pdf/v8eRoadwayDetailsSet.pdf>, that provides no less protection than two planks of hard wood or other suitable materials, at least 10 inches in width by three inches in thickness. Additional state-of-the-art material shall be considered by the Superintendent or designee when documentation of such material has been properly submitted for review. All material shall be constructed as to afford maximum protection for spectators and participants.

(d)-(k) (No change.)

#### 13:62-5.7 Vehicle equipment

Safety belts, shoulder harness, and crotch belt shall be provided in accordance with Section 16 of the National Hot Rod Association's rules, incorporated by reference at N.J.A.C. 13:62-5.39.

#### 13:62-5.15 Refueling

(a) In all instances where refueling is permitted with the engine running, a member of the pit crew, equipped with a 10 lb B:C or greater fire extinguisher, shall be in close proximity to the fill pipe of the fuel tank.

(b)-(d) (No change.)

#### 13:62-5.16 Batteries

All batteries shall be located, shielded, and fastened as per NHRA rules, incorporated by reference at N.J.A.C. 13:62-5.39, based on class of competition.

#### 13:62-5.17 Brakes and suspension

All braking systems and suspension components shall be in good working order and meet the requirements as per NHRA rules, incorporated by reference at N.J.A.C. 13:62-5.39, based on class of competition.

#### 13:62-5.18 Tires

All tires and wheels shall be free of defects and meet the requirements as per NHRA rules, incorporated by reference at N.J.A.C. 13:62-5.39, based on class of competition.

#### 13:62-5.19 Ignition switch

All ignition systems and/or components shall meet the requirements as per NHRA rules, incorporated by reference at N.J.A.C. 13:62-5.39, based on class of competition.

#### 13:62-5.21 Drivers

(a) (No change.)



(b) All drivers must have in their possession a valid state driver's license or a valid NHRA competition license based on class of competition. All drivers whose state-issued driving privileges are suspended or revoked are prohibited from competing in any class of competition.

(c) Drivers must meet all protective clothing requirements based on class of competition as per NHRA rules, incorporated by reference at N.J.A.C. 13:62-5.39. Protective clothing requirements are offered as minimum requirements and all drivers are encouraged to upgrade protective clothing to include fire suits, gloves, and shoes, so as to protect the body, arms, legs, hands, and feet from fire.

#### 13:62-5.22 Helmets, head cushions, and head and neck restraints

(a) All drivers **\*operating a vehicle running 13.99 seconds or faster elapsed time\*** shall wear a properly secured helmet which meets or exceeds the Snell Memorial Foundation Testing Standards for special application (SA) (2010) or motorcycle (M) (2010) use, respectively, which are incorporated herein by reference, as amended and supplemented, which has not reached the expiration date established by the Snell Memorial Foundation at the time of the event. The standards are available from the Snell Memorial Foundation, 3628 Madison Avenue, Suite 11, North Highlands, CA 95660.

**\*(b) All drivers operating a vehicle running 14.0 seconds or slower elapsed time shall wear a properly secured ¾ helmet which meets or exceeds the U.S. Department of Transportation (D.O.T.) Federal Motor Vehicle Safety Standards 218, Motorcycle Helmets, which are incorporated herein by reference, as amended and supplemented. The standards are available from the Office of Vehicle Safety Compliance, 400 7th Street, SW, Room 6111, Mail Code: NSA-30, Washington, D.C. 20590.\***

\*[(b)]\* \*(c)\* (No change.)

#### 13:62-5.23 Face shield

The use face shields shall be based on class of competition requirements as per NHRA rules, incorporated by reference at N.J.A.C. 13:62-5.39.

#### 13:62-5.25 Enclosed drive shaft

All drive shafts shall be enclosed as per NHRA rules, incorporated by reference at N.J.A.C. 13:62-5.39, based on class of competition.

#### 13:62-5.26 Water overflow tank

Liquid overflow containers shall be used as per NHRA rules, incorporated by reference at N.J.A.C. 13:62-5.39, based on class of competition.

#### 13:62-5.27 Vehicle lighting

One functional taillight shall be required as per NHRA rules, incorporated by reference at N.J.A.C. 13:62-5.39, based on class of competition.

#### 13:62-5.28 Vehicles equipped with parachutes

Recognized drag racing parachutes are required as per NHRA rules, incorporated by reference at N.J.A.C. 13:62-5.39, based on class of competition.

#### 13:62-5.29 (Reserved)

#### 13:62-5.32 (Reserved)

#### 13:62-5.36 Persons permitted in the primary and advanced staging areas

(a) All persons with pit credentials are permitted in the pit and primary staging areas. Persons under the age of 17 must be accompanied by an adult 18 years of age or older while in the primary staging area.

(b) Only persons age 17 or older, with pit credentials are to be permitted in the advanced staging area. Under no circumstances are persons under the age of 17 allowed in the advanced staging area with the sole exception of Junior Dragster drivers still in competition.

(c) Only competitors, immediate crew members, track officials, and emergency workers are authorized to move forward of the advanced staging area to the starting line and racing surface.

#### 13:62-5.39 Exceptions

Except as specifically set forth within this subchapter, all licensees, participants, and participating vehicles shall adhere to the 2014 National Hot Rod Association (NHRA) Rulebook, incorporated herein by reference, as amended and supplemented. Copies of the rulebook are available from the NHRA at National Hot Rod Association, 2035 Financial Way, Glendora, CA 91741 or at [www.nhra.com](http://www.nhra.com).

### SUBCHAPTER 6. MOTORCYCLE AND QUAD VEHICLES RACING EVENTS (OVAL RACING)

#### 13:62-6.2 Hubrail construction

(a)-(b) (No change.)

(c) The hubrail shall consist of at least two planks of hard wood or other suitable materials, at least 10 inches in width by three inches in thickness.

1. At any facility modified or built after March 5, 2007, the hubrail shall be constructed of metal or concrete material in accordance with New Jersey Department of Transportation Standard Roadway Construction-Traffic Control-Bridge Construction Details 2007, incorporated herein by reference, as amended and supplemented, available at <http://www.state.nj.us/transportation/eng/CADD/v8/v8RoadwayDetails/pdf/v8eRoadwayDetailsSet.pdf>, which provides no less protection than two planks of hard wood or other suitable materials, at least 10 inches in width by three inches in thickness. Additional state-of-the-art material shall be considered by the Superintendent or designee when documentation of such material has been properly submitted for review. All material shall be constructed as to afford maximum protection for spectators and participants.

(d)-(k) (No change.)

#### 13:62-6.10 Helmets

All riders shall wear a properly secured helmet, which meets or exceeds Snell Memorial Foundation Testing Standard K (2010), M (2010), or SA (2010), which are incorporated herein by reference, as amended or supplemented, which has not reached the expiration date established by the Snell Memorial Foundation at the time of the event. The Standards are available from the Snell Memorial Foundation, 3628 Madison Avenue, Suite 11, North Highlands, CA 95660.

### SUBCHAPTER 6A. MOTOCROSS AND QUAD VEHICLE RACING EVENTS (SERPENTINE RACING)

#### 13:62-6A.6 Additional requirements for motocross events

(a) Except as provided in this chapter and in (a)1 and 2 below, all motocross practice, racing, and exhibition events shall be in accordance with the 2014 American Motorcyclist Association (AMA) rules and regulations, which are incorporated herein by reference, as amended and supplemented. AMA rules may be obtained from the American Motorcyclist Association, 13515 Yarmouth Drive, Pickerington, OH 43147 or at [www.AMADirectlink.com](http://www.AMADirectlink.com).

1.-2. (No change.)

#### 13:62-6A.8 Helmets

All riders shall wear a properly secured helmet, which meets or exceeds the Snell Memorial Foundation Testing Standard K (2010), M (2010), or SA (2010), which are incorporated herein by reference, as amended or supplemented, which has not reached the expiration date established by the Snell Memorial Foundation at the time of the event. The Standards are available from the Snell Memorial Foundation, 3628 Madison Avenue, Suite 11, North Highlands, CA 95660.

### SUBCHAPTER 6B. MOTOCROSS ENDURO RACING EVENTS

#### 13:62-6B.6 Additional guidelines for motocross racing enduro events

(a) All participants shall be at least 17 years of age and be in possession of a valid motorcycle driver's license from his or her state of residence.

(b)-(c) (No change.)

## 13:62-6B.8 Helmets

All riders shall wear a properly secured helmet, which meets or exceeds the Snell Memorial Foundation Testing Standard K (2010), M (2010), or SA (2010), which are incorporated herein by reference, as amended or supplemented, which has not reached the expiration date established by the Snell Memorial Foundation at the time of the event. The Standards are available from the Snell Memorial Foundation, 3628 Madison Avenue, Suite 11, North Highlands, CA 95660.

## SUBCHAPTER 6C. MOTORCYCLE, QUAD VEHICLE, OR SNOWMOBILE HARE SCRAMBLE EVENTS

## 13:62-6C.5 Participants

(a)-(b) (No change.)

(c) All riders participating in races, practices, and exhibitions of driving skill shall wear a properly secured helmet, which meets or exceeds the Snell Memorial Foundation Testing Standard K (2010), M (2010), or SA (2010), which are incorporated herein by reference, as amended and supplemented, which has not reached the expiration date established by the Snell Memorial Foundation at the time of the event. The standards are available from the Snell Memorial Foundation, 3628 Madison Avenue, Suite 11, North Highlands, CA 95660.

(d) (No change.)

## SUBCHAPTER 7. SNOWMOBILE EVENTS

## 13:62-7.7 Safety requirements; vehicles and personnel

(a) All participants in a snowmobile race, practice, or exhibition shall wear a properly secured helmet, which meets or exceeds the Snell Memorial Foundation Testing Standard K (2010), M (2010), or SA (2010), which are incorporated herein by reference, as amended and supplemented, which has not reached the expiration date established by the Snell Memorial Foundation at the time of the event. The standards are available from the Snell Memorial Foundation, 3628 Madison Avenue, Suite 11, North Highlands, CA 95660.

(b)-(c) (No change.)

## SUBCHAPTER 8. GO-KART EVENTS

## 13:62-8.2 Track construction

(a) Construction of hubrails, fences, and other safety devices for go-kart events must comply in all respects with the provisions of this subchapter and be in compliance with the World Karting Association Technical Manual (2014 Edition) rules governing go-kart racing, which are incorporated herein by reference, as amended or supplemented, unless the licensee has written approval for any changes from the Superintendent or designee. A copy of the Technical Manual may be obtained from the W.K.A., 5725D Highway 29 North, Harrisburg, NC 28075.

(b) (No change.)

## SUBCHAPTER 8A. LAWN MOWER RACING EVENTS

## 13:62-8A.6 Safety requirements; personnel

(a) All participants in a lawn mower race, practice, or exhibition shall wear a properly secured helmet, which meets or exceeds Snell Memorial Foundation Testing Standard K (2010), M (2010), or SA (2010), which are incorporated herein by reference, as amended and supplemented, which has not reached the expiration date established by the Snell Memorial Foundation at the time of the event. The standards are available from the Snell Memorial Foundation, 3628 Madison Avenue, Suite 11, North Highlands, CA 95660.

(b)-(d) (No change.)

## 13:62-8A.8 Fueling and fire suppression

(a) (No change.)

(b) Designated fueling areas shall be equipped with a minimum of two 10 lb B:C or greater fire extinguishers.

## 13:62-8A.9 Ambulances and certified EMTs

(a) The licensee shall not permit any race, practice, or exhibition of driving skill unless there is available for immediate use at the licensed

location at least one vehicle suitable for ambulance purposes, together with two certified EMTs.

(b) (No change.)

## SUBCHAPTER 9. DEMOLITION DERBY

## 13:62-9.2 Demolition derby participants

(a)-(b) (No change.)

(c) All demolition derby drivers shall wear a properly secured, full face helmet with face shield, which meets or exceeds the Snell Memorial Foundation Testing Standard K (2010), M (2010), or SA (2010), which are incorporated herein by reference, as amended or supplemented, which has not reached the expiration date established by the Snell Memorial Foundation at the time of the event. The standards are available from the Snell Memorial Foundation, 3628 Madison Avenue, Suite 11, North Highlands, CA 95660. The use of open face helmets and goggles is prohibited in demolition derby. A Nomex, or similar fire-resistant head sock, is recommended to be worn in conjunction with the use of the full face helmet with shield.

(d) (No change.)

## 13:62-9.4 Clothing requirements for demolition derby

Drivers shall wear safety clothing to afford maximum protection to the driver according to industry standards. At a minimum, drivers in demolition derby shall wear long pants, a long sleeve shirt, and closed-toe shoes. Shorts and nylon clothing are prohibited. It is recommended that drivers wear a one-piece fire-resistant driving suit and fire resistant gloves.

13:62-9.7 and 9.8 (Reserved)

## SUBCHAPTER 9A. TRACTOR PULL EVENTS

## 13:62-9A.1 Licensed facilities

Tractor pull events shall only take place in licensed facilities.

## 13:62-9A.2 Track construction

(a) Design and construction of a tractor pull track must be approved by the Superintendent or designee pursuant to this section prior to the pulling event.

(b) The pulling surface shall be bounded on both sides by a hub rail constructed of either, a steel Armco guide rail, a concrete barrier, or timber backed, steel post and rail assembly. The hub rail shall be constructed parallel to the direction of the pull. The pulling surface shall be open on either end to facilitate flow onto and off of the competition surface. Adequate run-out area shall be provided at the top end to allow shut down and recovery in the event of a mechanical failure.

(c) A sketch of the entire facility including the pulling surface, spectator area, pit area, and parking area, as close as practicable to scale, with an accompanying written description of the facility shall be provided.

## 13:62-9A.3 Fences

All fences installed for the purpose of limiting spectator areas shall be constructed of welded wire or chain link and shall be at least six feet in height and constructed as not to be easily lifted, climbed, or moved aside.

## 13:62-9A.4 Flagmen

The licensee shall provide flagmen located so as to maintain an unobstructed view of the participant and sled in order to control the entire pulling event.

## 13:62-9A.5 Inspection of vehicles

(a) The licensee shall arrange for the inspection of each participating vehicle prior to the event, to determine that it meets the requirements of this chapter. The licensee shall prohibit vehicles not meeting the requirements of this chapter from participation or practice.

(b) Vehicles that are to be used in tractor pull events are subject to unannounced inspection and approval at any time by the Superintendent or designee.

## 13:62-9A.6 Tractor pull kill switch and brake requirement

(a) All tractors competing in a tractor pull event shall be equipped with a kill switch in operating order and must have rear brakes in working

condition. All drivers must be able to operate all tractor controls from the driver's seat.

(b) All street legal trucks competing in a truck pull are exempt from the kill switch requirement.

#### 13:62-9A.7 Speed limits

All vehicles operated in the pit area and staging area shall obey a five miles per hour speed limit.

#### 13:62-9A.8 Tractor pull age requirements

(a) All competitors participating in tractor pull, antique tractor pull, or truck pull shall be at least 17 years of age or possess a valid driver's license or a valid farmer's license.

(b) All competitors participating in garden tractor pull shall be at least 10 years of age.

(c) All working officials, flagmen, and persons having access to the track surface shall be at least 16 years of age.

#### 13:62-9A.9 Helmet and clothing requirements for tractor pull events

Helmets are recommended, but not required, for drivers of tractors in tractor pull, antique tractor pull, and truck pull events. A driver of a tractor in garden tractor pull is required to wear a properly secured helmet. Open face helmets are permitted. Drivers participating in all classes of tractor pull shall wear at a minimum long pants and closed-toe shoes.

### SUBCHAPTER 10. AUTOMOBILE ENDURO EVENTS (OTHER THAN AT LICENSED ROAD COURSE FACILITIES)

#### 13:62-10.1 Construction requirements

(a)-(b) (No change.)

(c) The hubrail shall consist of at least two planks of hard wood or other suitable materials, at least 10 inches in width by three inches in thickness.

1. At any oval track modified or built after March 5, 2007, the hubrail shall be constructed of metal or concrete material in accordance with New Jersey Department of Transportation Standard Roadway Construction-Traffic Control-Bridge Construction Details 2007, incorporated herein by reference, as amended and supplemented, available at <http://www.state.nj.us/transportation/eng/CADD/v8/v8RoadwayDetails/pdf/v8eRoadwayDetailsSet.pdf>. Additional state-of-the-art material shall be considered by the Superintendent or designee when documentation of such material has been properly submitted for review. All material shall be constructed as to afford maximum protection for spectators and participants.

(d)-(k) (No change.)

#### 13:62-10.7 Driver and vehicle requirements

(a) All drivers in enduro events shall be at least 17 years of age and possess a driver's license. The licensee shall check the license for validity.

(b) All drivers shall wear a properly secured, full face helmet with face shield, which meets or exceeds Snell Memorial Foundation Testing Standard K (2010), M (2010), or SA (2010), which are incorporated herein by reference, as amended and supplemented, which has not reached the expiration date established by the Snell Memorial Foundation at the time of the event. The standards are available from the Snell Memorial Foundation, 3628 Madison Avenue, Suite 11, North Highlands, CA 95660. A Nomex, or similar fire-resistant head sock is recommended to be worn in conjunction with the use of the full face helmet with shield. The use of open face helmets and goggles is prohibited.

(c)-(j) (No change.)

### SUBCHAPTER 11. MUD HOP

#### 13:62-11.10 Equipment requirements

(a) All drivers shall wear a properly secured, full face helmet with face shield, which meets or exceeds Snell Memorial Foundation Testing Standard SA (2010), which is incorporated herein by reference, as amended or supplemented, which has not reached the expiration date established by the Snell Memorial Foundation at the time of the event.

The standards are available from the Snell Memorial Foundation, 3628 Madison Avenue, Suite 11, North Highlands, CA 95660. A Nomex, or similar fire-resistant head sock is recommended to be worn in conjunction with the use of the full face helmet with shield. The use of open face helmets and goggles is prohibited.

(b)-(e) (No change.)

### SUBCHAPTER 12A. QUARTER MIDGETS EVENTS

#### 13:62-12A.1 Licensed facilities

Quarter midget events shall only take place in licensed facilities. Except as specifically set forth in this chapter, all facilities, participants, and vehicles shall comply with the 2013 rules, requirements, and specifications of the Quarter Midgets of America relative to the class or division of competition, which is incorporated herein by reference, as amended and supplemented. A copy of these rules can be obtained by contacting the Quarter Midgets of America, 6118 E. 19th Street, Tulsa, OK 74112.

#### 13:62-12A.3 Safety requirements

(a) Quarter midgets and persons participating in races or exhibitions of driving skill on any track or facility licensed by the Superintendent shall comply with the following requirements:

1.-4. (No change.)

5. All drivers shall wear a properly secured, full face helmet with face shield, which meets or exceeds Snell Memorial Foundation Testing Standard SA (2010), which is incorporated herein by reference, as amended or supplemented, which has not reached the expiration date established by the Snell Memorial Foundation at the time of the event. The standards are available from the Snell Memorial Foundation, 3628 Madison Avenue, Suite 11, North Highlands, CA 95660. All drivers shall also wear a properly secured head and neck restraint device/system and/or a neck collar, which are commercially produced and designed for racing.

6.-11. (No change.)

### SUBCHAPTER 12B. JUNIOR DRAG RACING EVENTS

#### 13:62-12B.1 Licensed facilities

Except as specifically set forth in this subchapter, all licensed facilities, participants, and participating vehicles shall comply with the requirements and specifications of the 2014 National Hot Rod Association Junior Drag Racing League Rulebook, relative to class of competition, which is incorporated herein by reference, as amended and supplemented. A copy of these rules may be obtained by contacting the NHRA at National Hot Rod Association Technical Department, 2035 Financial Way, Glendora, CA 91740.

#### 13:62-12B.2 Construction requirements

(a)-(b) (No change.)

(c) The hubrail shall consist of at least two planks of hard wood or other suitable materials, at least 10 inches in width by three inches in thickness.

1. At any oval track modified or built after March 5, 2007, the hubrail shall be constructed of metal or concrete material in accordance with New Jersey Department of Transportation Standard Roadway Construction-Traffic Control-Bridge Construction Details 2007, incorporated herein by reference, as amended and supplemented. The standard is available at <http://www.state.nj.us/transportation/eng/CADD/v8/v8RoadwayDetails/pdf/v8eRoadwayDetailsSet.pdf>. Additional state-of-the-art material shall be considered by the Superintendent or designee when documentation of such material has been properly submitted for review. All material shall be constructed as to afford maximum protection for spectators and participants.

(d)-(k) (No change.)

#### 13:62-12B.8 Vehicle equipment and driver requirements

(a) Junior drag racers and personnel participating in races or exhibitions of driving skill on any track or facility licensed by the Superintendent shall comply with the following requirements:

1.-4. (No change.)

5. All drivers shall wear a properly secured helmet, which meets or exceeds the Snell Memorial Foundation Testing Standard SA (2010), which is incorporated herein by reference, as amended and supplemented, which has not reached the expiration date established by the Snell Memorial Foundation at the time of the event. The standards are available from the Snell Memorial Foundation, 3628 Madison Avenue, Suite 11, North Highlands, CA 95660.

6.-8. (No change.)

#### SUBCHAPTER 15. ACTIONS FOR VIOLATION(S)

13:62-15.1 Actions for violations

(a)-(b) (No change.)

(c) In cases where violations of this chapter consistently occur, the Superintendent or designee may suspend the motor vehicle race track license previously issued until such time as the licensee corrects the safety or administrative violation(s).

(a)

#### DIVISION OF GAMING ENFORCEMENT

##### Hearings

##### Conduct of Contested Cases

##### Notice of Violation

**Adopted New Rule: N.J.A.C. 13:69B-2.9**

**Adopted Amendment: N.J.A.C. 13:69B-2.1**

Proposed: May 19, 2014, at 46 N.J.R. 842(a).

Adopted: August 1, 2014, by David Rebeck, Director, Division of Gaming Enforcement.

Filed: August 8, 2014, as R.2014 d.142, **without change**.

Authority: N.J.S.A. 5:12-69, 70, 80, 86, 89, 90, 91, 92, 94, 95, 102, 107, 108, 109, and 129.

Effective Date: September 2, 2014.

Expiration Date: December 19, 2018.

**Summary of Public Comment and Agency Response:**

**No comments were received.**

##### Federal Standards Statement

A Federal standards analysis is not required because the adopted new rule and amendment are authorized by the provisions of the Casino Control Act, N.J.S.A. 5:12-1 et seq., and are not subject to Federal law.

**Full text of the adoption follows:**

#### SUBCHAPTER 2. CONDUCT OF CONTESTED CASES

13:69B-2.1 Commencement of a contested case

(a)-(b) (No change.)

(c) A contested case shall commence incident to a Notice of Violation pursuant to N.J.A.C. 13:69B-2.9 upon:

1. A request of a licensee, registrant, or applicant after failing to enter into a written agreement with the Division to resolve the violation; or

2. The failure of a licensee, registrant, or applicant to timely respond to the Notice of Violation in accordance with N.J.A.C. 13:69B-2.9(c).

13:69B-2.9 Notice of Violation

(a) The Division may notify a licensee, registrant, or applicant of a regulatory violation by serving a Notice of Violation, which writing shall state, in ordinary and concise language, the nature of the violation and the acts or omissions supporting such violation.

(b) The Notice of Violation may include a proposed civil monetary penalty authorized pursuant to N.J.S.A. 5:12-129(5), in an amount not to exceed \$2,000, and/or any other penalty or requirement allowed by N.J.S.A. 5:12-129.

(c) Upon receipt of a Notice of Violation that includes a proposed penalty, a licensee, registrant, or applicant shall within 30 days respond to the Division in writing and either:

1. Acknowledge the violation and agree to the proposed penalty; or

2. Deny the allegation and request that the matter proceed as a contested case.

(d) The failure of a licensee, registrant, or applicant to notify the Division as required in (c) above, shall cause the matter to proceed as a contested case under N.J.A.C. 13:69B-2.4.

(e) If the licensee, registrant, or applicant acknowledges the violation and agrees to the proposed penalty, the parties shall, within 30 days of the date of acknowledgement referenced in (c)1 above, enter into an agreement, which shall include remedial action to be undertaken by the licensee, registrant, or applicant. Failure to enter into an agreement within the required time shall cause the matter to proceed as a contested case under N.J.A.C. 13:69B-2.4.

(b)

#### JUVENILE JUSTICE COMMISSION

#### DEPARTMENT OF CORRECTIONS

#### THE COMMISSIONER

#### Transfer of Adjudicated Delinquents to the New Jersey Department of Corrections

**Jointly Adopted Amendments: N.J.A.C. 13:91-1.1, 1.3, 1.4, 2.4, and 2.5**

**Jointly Adopted Repeal and New Rules: N.J.A.C. 13:91-2.1, 2.2, and 2.3**

**Jointly Adopted New Rule: N.J.A.C. 13:91-3**

Proposed: August 19, 2013, at 45 N.J.R. 1941(a).

Adopted: July 16, 2014, by Executive Board of the Juvenile Justice Commission, by the Honorable John Jay Hoffman, Acting Attorney General and Chair, Deborah R. Edwards, Attorney General's Designee, and Gary M. Lanigan, Commissioner, Department of Corrections.

Filed: August 8, 2014, as R.2014 d.141, **with substantial and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 52:17B-170, 52:17B-171, and 52:17B-175.

Effective Date: September 2, 2014.

Expiration Date: May 15, 2015.

N.J.A.C. 13:91 is jointly adopted by the New Jersey Juvenile Justice Commission (the Commission) and the New Jersey Department of Corrections (DOC), setting out procedures for the transfer of certain juveniles from the Commission to DOC, as authorized by N.J.S.A. 52:17B-175(e). In *State of New Jersey In The Interest of J.J.* (427 N.J. Super. 541, App. Div. 2012), and as further clarified in an unreported decision, *State of New Jersey In The Interest of Y.C.* (Dkt No. A-1030-13) on June 5, 2014, the Superior Court of New Jersey, Appellate Division held that the chapter is constitutionally flawed because it fails to afford procedural due process to a juvenile proposed to be transferred. The adopted amendments, repeals, and new rules implement hearing procedures in satisfaction of the due process requirement, and make a number of minor stylistic changes.

##### Summary of Public Comments and Agency Responses:

The Commission received two public comments in response to the August 2013, notice of proposal: One from Office of the Public Defender, Appellate Section (the PD); the other from the Criminal and Youth Justice Clinic of Rutgers School of Law, Newark (Rutgers). The responses to the comments that follow reflect the views of both the Commission and DOC.

The Commission notes that in its comment, Rutgers inaccurately describes an important element of the holding in *JJ supra*. In summarizing the standards applicable to transfers of juveniles to DOC, the *JJ* Court stated that "at a minimum" a juvenile subject to transfer must be offered the following five due process protections:

1. Written notice of the proposed transfer and of the supporting factual basis;