

iii. The commencement of commercial operations shall be determined by the date on which the electric distribution company grants the facility permission to operate as referenced in N.J.A.C. 14:8-5 or the date the facility is granted permission to operate through PJM Interconnection LLC; and

iv. Termination of the SREC registration program shall occur no later than June 1, 2021.

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

(h) Registration of a solar electric generating facility requires completion of the following process:

1.-3. (No change.)

4. If the solar facility as described in the initial registration package meets SREC eligibility requirements, Board staff shall issue notice to the registrant of a conditional registration for the facility. The notice of the conditional registration shall:

i. State that, if the solar facility is constructed as described in the initial registration package, Board staff will issue a New Jersey State Certification Number for the solar facility upon construction completion and inspection subject to conditions referenced in (b)7 above; and

ii. Include an expiration date 12 months after the date of the notice for facilities that are net metered, provide on-site generation, or provide power for a qualified customer engaged in aggregated net metering. Subject to the date of the Board's determination on the State's attainment of the 5.1 percent milestone, facilities that are registered after August 7, 2019, may not be granted a full 12-month registration length and may not be eligible for an extension; and

iii. Include an expiration date 24 months after the effective date of Board approval, designation, or conditional certification for solar electric generation facilities where Board approval, designation, or conditional certification is required. Subject to the Board's determination on the State's attainment of the 5.1 percent milestone, projects that applied to the Board for approval, conditional approval, or conditional certification after October 29, 2018, may not be granted a full 24-month registration length and may not be offered an extension; and

5. (No change.)

(i) Construction of the solar electric generating facility shall be subject to the qualifications at (b)7 above and shall be completed prior to expiration of the conditional registration. The registrant for facilities that are net metered, provide on-site generation, or provide power for a qualified customer engaged in aggregated net metering, and which received conditional registration before December 31, 2018, may request one extension prior to the expiration of the conditional registration, and shall include an updated schedule for completion. Except for registrations submitted for projects approved or conditionally approved for designation as "connected to the distribution system" under (g) above, Board staff may authorize one extension of the project's registration on a case-by-case basis, based on the likelihood of timely and successful completion of the solar facility. An extension shall provide a new expiration date, six months from the expiration of the original conditional registration. A project that is provided conditional registration after December 31, 2018, such that it has an expiration date falling after December 31, 2019, may not be granted the full six-month extension. The conditional registration of such a project may end when the Board has determined that the 5.1 percent milestone has been attained. If the conditional registration, or extension, expires before construction is complete, the registrant shall begin the entire registration process again by submitting an initial registration package. Board staff shall treat the new registration package as if it were a first-time submittal, with no reference to the previous registration process. Facilities that require approval or certification by the Board, other than those requiring approval of designation under (g) above, must seek extensions of the conditional registration expiration date directly by application to the Board, unless otherwise directed by the Board. Registrants who file after failure to complete during the initial 18 or 24 month registration period shall not be subject to the penalty set out at (e) above if the Board finds that the failure to complete within time was reasonable. If these projects were provided conditional certification after October 29, 2018, they may not be granted a full 24 month registration length to complete the project and may not be offered an extension.

(j)-(q) (No change.)

(r) The Board shall approve, conditionally approve, or disapprove any application for designation as connected to the distribution system of a solar electric power generation facility filed with the Board after May 23, 2018, the date of enactment of P.L. 2018, c. 17 (N.J.S.A. 48:3-87.8 et seq.), no more than 90 days after receipt by the Board of a completed application. For any such application for a project greater than 25 kilowatts, the Board shall require the applicant to post a notice escrow with the Board in an amount of \$40.00 per kilowatt of DC nameplate capacity of the facility, not to exceed \$40,000. The notice escrow amount shall be reimbursed to the applicant in full upon either denial of the application by the Board or upon commencement of commercial operation of the solar electric power generation facility. The escrow amount shall be forfeited to the State if the facility is designated as connected to the distribution system pursuant to this subsection but does not commence commercial operation within two years following the date of the designation by the Board. This escrow requirement only applies to the class of grid supply projects required to file an application for designation.

(s) The qualification life shall be 10 years for all solar generation projects for which the Board receives a complete registration or application for designation as connected to the distribution system or conditional certification after October 29, 2018, which achieves commercial operation prior to attainment of the 5.1 percent milestone, and which is otherwise eligible for conditional registration.

## TRANSPORTATION

### (a)

#### MOTOR VEHICLE COMMISSION

#### Inspection of School Bus Driver Records

#### Adopted Amendments: N.J.A.C. 13:20-30.14 and 13:21-23.15

Proposed: August 5, 2019, at 51 N.J.R. 1253(a).

Adopted: December 10, 2019, by the Motor Vehicle Commission, B.

Sue Fulton, Chair and Chief Administrator.

Filed: December 27, 2019, as R.2020 d.009, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 39:3-10.1.

Effective Date: February 3, 2020.

Expiration Date: December 4, 2020.

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

The written comments received by the Motor Vehicle Commission (Commission) regarding its August 5, 2019, notice of proposal at 51 N.J.R. 1253(a), are available for inspection at the Office of the Chief Administrator, Legal and Regulatory Affairs, Motor Vehicle Commission, 225 East State Street, 9th Floor, Trenton, New Jersey.

The following individuals submitted timely written comments to the Commission regarding the notice of proposal, which comments are addressed below: Michael A. Vrancik, Director Governmental Relations, New Jersey School Boards Association; and J. Marsden.

1. COMMENT: Mr. Vrancik submitted a letter in support of the notice of proposal on behalf of the New Jersey School Boards Association (NJSBA), a federation of all of New Jersey's school districts. Mr. Vrancik states that the NJSBA, which believes that local boards of education should provide conditions and establish policies that will ensure the health and safety of students, supported P.L. 2018, c. 151, during the legislative process, and supports the proposed amendments that implement the law. Specifically, the NJSBA supports requiring school bus drivers to provide medical certificates to employers to prove continuing physical fitness and submit to medical examinations that include certain screenings.

RESPONSE: The Commission appreciates the comments of Mr. Vrancik on behalf of the NJSBA, and the NJSBA's continuing support of policies and rules that ensure the health and safety of students.

2. COMMENT: J. Marsden states that each driver is already physically examined by a medical professional, who certifies the continuing physical

fitness of that individual under Federal regulations. J. Marsden continues that the Federal requirement should be able to substitute in the place of one of the two proposed additionally required examinations. J. Marsden states that the medical examination done to satisfy the Federal requirement would not be any different from an examination as required under the rule proposal, and it would still meet the goal to monitor bus drivers for safety to operate.

RESPONSE: The Commission appreciates J. Marsden's suggestions. However, the Federal examination is not identical to the new requirement at N.J.S.A. 39:3-10.1, chiefly because the requirement at N.J.S.A. 39:3-10.1, requires the medical examination to be completed by a licensed medical doctor or licensed osteopathic physician, whereas, the Federal requirement allows examination by various other medical professionals, including physician assistants, chiropractors, advanced practice nurses, and other practitioners. In addition, J. Marsden's comment does not appear to recognize the difference in the law and proposed rule implementing that law, between the requirements for drivers ages 70-74, and those ages 75 and over. It is only for those drivers age 75 and over that two examinations in addition to the Federal requirement are mandated. For drivers ages 70-74, only one additional examination is required. Thus, for drivers ages 70-74, the Federal examination and one additional examination is required; for drivers age 75 and over, two examinations in addition to the Federal requirement are required. As the Commission notes, the Federal requirement is not the same as the State one, and, therefore, substitution is not appropriate.

#### Federal Standards Analysis

The adopted amendments exceed the requirements of Federal regulations by requiring school bus drivers to obtain, and operators to maintain, medical evaluations for school bus drivers age 70 or older.

Federal requirements related to commercial driver licenses in general, and school bus endorsements in particular, are addressed in Federal regulations, but there is no requirement for school bus drivers age 70 or older to obtain and submit to their employers an additional medical evaluation. State law, at N.J.S.A. 39:3-10.1, mandates medical evaluations for school bus drivers age 70 or older, and that they be furnished to the driver's employer. The adopted amendments relate exclusively to the State law, and as such, the Commission has determined that the adopted amendments are justified in order to ensure safety.

The Commission has determined that the economic impact on holders of school bus endorsements age 70 or older in obtaining and submitting their annual (ages 70-74) or every six months (age 75 and older) Medical Doctor or Osteopathic Physician Evaluation forms, is justified by the enhanced safety to the motoring, cycling, and pedestrian population, as well as the public's and passengers' safety.

None of the Federal physical qualification regulations at 49 CFR 391.41 through 391.49 address the medical certification of school bus drivers by age or contain an additional requirement for drivers 70 years of age or older. The adopted amendments implement State law, which imposes the requirement for a specific medical evaluation for drivers age 70 or older to be obtained and furnished to a school bus driver's employer before a school bus driver can continue to drive or begin to drive.

49 CFR 391.51, General requirements for driver qualification files, requires maintenance in a driver's file of the Federally required Medical Examiner's Certificate relating to the driver for the current year and it is to be maintained for three years. The adopted amendments impose the requirement for an employer to maintain the additional medical evaluation for drivers age 70 or older. The Commission has determined that there is no economic impact on operators, and that to the extent any costs are incurred by operators, the costs are justified in order to ensure safety.

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

## CHAPTER 20 ENFORCEMENT SERVICE

### SUBCHAPTER 30. INSPECTION OF SCHOOL BUSES

13:20-30.14 Driver qualification; criminal history record information; driver qualification employment records

(a)-(e) (No change.)

(f) An operator shall maintain a driver qualification employment record for each driver employed by the operator. Failure to maintain all required records shall subject an operator to the penalties set forth at N.J.A.C. 13:20-30.11. A driver qualification employment record shall include the following:

1. (No change.)

2. A Medical Examiner's Certificate of the driver's physical qualification to drive a school bus in the form of a satisfactory medical report, which is compliant with the requirements set forth at 49 CFR 391.43 and N.J.A.C. 13:21-23.28(l) and is completed by a licensed physician;

3. In addition to the requirement in (f)2 above, for every holder of a school bus endorsement who is 70 to 74 years of age, an annual Medical Doctor or Osteopathic Physician Evaluation. A licensed medical doctor or osteopathic physician must perform an examination, and complete and certify a Medical Doctor or Osteopathic Physician Evaluation, in the format prescribed by the Chief Administrator, as evidence of the examination and the continuing physical fitness of the school bus endorsement holder pursuant to N.J.S.A. 39:3-10.1 and N.J.A.C. 13:21-23.15. An operator shall maintain the annual evaluation for three years after the date of execution of the evaluation;

4. In addition to the requirement in (f)2 above, for every holder of a school bus endorsement who is 75 years of age or older, a Medical Doctor or Osteopathic Physician Evaluation every six months. A licensed medical doctor or osteopathic physician must perform an examination, and complete and certify a Medical Doctor or Osteopathic Physician Evaluation, in the format prescribed by the Chief Administrator, as evidence of the examination and the continuing physical fitness of the driver pursuant to N.J.S.A. 39:3-10.1 and N.J.A.C. 13:21-23.15. An operator shall maintain each of the two evaluations required yearly for three years after the date of execution of the evaluation;

Recodify existing 3.-4. as 5.-6. (No change in text.)

## CHAPTER 21 LICENSING SERVICE

### SUBCHAPTER 23. COMMERCIAL DRIVER LICENSING

13:21-23.15 Requirements for a school bus endorsement

(a) (No change.)

(b) Every holder of a school bus endorsement who is 70 years of age or older must comply with the following requirements.

1. Every holder of a school bus endorsement who is aged 70 to 74 must obtain and submit to his or her employer annually, a certified Medical Doctor or Osteopathic Physician Evaluation, in the format prescribed by the Chief Administrator and completed by a licensed medical doctor or osteopathic physician, which evidences a medical examination and the continuing physical fitness of the school bus endorsement holder pursuant to N.J.S.A. 39:3-10.1.

i. A school bus endorsement holder who is at least age 70, but not yet 75 years of age, who is employed as a school bus driver as of **\*[(the effective date of this amendment)]\* \*February 3, 2020\***, shall comply with (b)1 above by **\*[(30 days after the effective date of this amendment)]\* \*March 4, 2020\***, and annually thereafter by the initial date of compliance.

(1) A school bus endorsement holder under this subparagraph that has already complied with (b)1 above prior to **\*[(the effective date of this amendment)]\* \*February 3, 2020\*** shall comply annually thereafter from the initial date of compliance.

ii. A school bus endorsement holder who is employed as a school bus driver as of **\*[(the effective date of this amendment)]\* \*February 3, 2020\***, who turns age 70 after **\*[(the effective date of this amendment)]\* \*February 3, 2020\***, shall comply with (b)1 above within 30 days of his

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or her birthday, and annually thereafter from the initial date of compliance, through his or her 74th birthday.

iii. A school bus endorsement holder who is at least age 70, but not yet 75 years of age, who is not employed as a school bus driver as of \*[(the effective date of this amendment)]\* **February 3, 2020**\*, shall comply with (b)1 above within 30 days of starting his or her employment as a school bus driver, and annually thereafter from the initial date of compliance.

2. Every holder of a school bus endorsement who is age 75 or older must obtain and submit to his or her employer every six months, a certified Medical Doctor or Osteopathic Physician Evaluation, in the format prescribed by the Chief Administrator and completed by a licensed medical doctor or osteopathic physician, which evidences a medical examination and the continuing physical fitness of the school bus endorsement holder pursuant to N.J.S.A. 39:3-10.1.

i. A school bus endorsement holder who is age 75 or older, who is employed as a school bus driver as of \*[(the effective date of this amendment)]\* **February 3, 2020**\*, shall comply with (b)2 above by \*[(30 days after the effective date of this amendment)]\* **March 4, 2020**\*, and every six months thereafter from the initial date of compliance.

(1) A school bus endorsement holder under this subparagraph that has already complied with (b)2 above prior to \*[(the effective date of this

amendment)]\* **February 3, 2020**\*, shall comply every six months thereafter from the initial date of compliance.

ii. A school bus endorsement holder who is employed as a school bus driver as of \*[(the effective date of this amendment)]\* **February 3, 2020**\*, who turns age 75 after \*[(the effective date of this amendment)]\* **February 3, 2020**\*, shall comply with (b)2 above within 30 days of his or her birthday, and every six months thereafter from the initial date of compliance.

iii. A school bus endorsement holder who is age 75 or older, who is not employed as a school bus driver as of \*[(the effective date of this amendment)]\* **February 3, 2020**\*, shall comply with (b)2 above within 30 days of starting his or her employment as a school bus driver, and every six months thereafter from the initial date of compliance.

3. The requirements to obtain and submit a certified Medical Doctor or Osteopathic Physician Evaluation identified in (b)1 and 2 above are in addition to, and may not be substituted with, the Medical Examiner’s Certificate required by 49 CFR 391.43 and N.J.A.C. 13:21-23.28(1).

4. If a holder of a school bus endorsement age 70 or older does not comply with (b)1 and 2 above, the Commission shall suspend the holder’s school bus endorsement.

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