

the role of an evaluator in the custody/parenting time evaluation and/or termination of parental rights evaluation, or the role of a parenting coordinator, and shall advise any party or court of this prohibition.

(b) A licensee who is a treating therapist may report on a client's mental health status and treatment issues but shall not make any recommendations regarding custody or termination of parental rights.

(c) After the evaluation process is completed, a licensee, whose initial involvement with a case has been as an evaluator, may agree to function subsequently as a treating therapist or parent coordinator, but shall be precluded from functioning as an evaluator in the case.

13:34-31.5 Communications

(a) If a licensee is court-appointed, the licensee shall communicate any information only to the court and both parties, or their attorneys, simultaneously, either in writing or through a conference call.

(b) If a licensee is selected by both parties without a court appointment, the licensee shall communicate any information only to both parties, or their attorneys, simultaneously, either in writing or through a conference call.

(c) If a licensee is selected by only one party, the licensee shall communicate any information only to that party, or the party's attorney.

13:34-31.6 Required disclosures

(a) A licensee shall provide information, in writing, to the parties to assist them in understanding the nature of the custody/parenting time evaluation and/or termination of parental rights evaluation and the terms of their agreement to participate. This information shall include the following:

1. Purpose, procedures, and methods;
2. Fees;
3. Responsibility of parties for payment of the fees and whether payment will be required prior to the delivery of any report;
4. Limits of confidentiality, including the limitations set forth in 42 CFR Part 2, which is incorporated herein by reference;
5. Special policies pertaining to issues, such as canceled and/or missed appointments; and
6. Limitation on communications as set forth in N.J.A.C. 13:34-31.5.

(b) A licensee shall inform the parties about the purpose of any assessment instruments, interview techniques, and the use of any information collected. The licensee shall provide this information, as appropriate, to children, to the extent that they are able to understand.

13:34-31.7 Fees

(a) Before commencing the custody/parenting time evaluation and/or termination of parental rights evaluation, a licensee shall inform the party or parties responsible for paying the fees, in writing, of the estimated fees for all anticipated services and any additional fees, should the licensee be required, requested, or mandated to perform additional services.

(b) A licensee shall provide the party or parties responsible for paying the fees with complete documentation of all fees, itemizing time, charges, and services.

(c) A licensee may accept payment of fees by retainer or by a pre-arranged fee schedule.

1. If a partial retainer is accepted, a licensee shall inform the court, attorneys, and/or parties of the schedule for payment of the remainder and of any contingent relationship between complete payment and final delivery of services. A licensee shall inform the court, attorneys, and/or parties that payment in excess of the reasonable estimate is expected if delivery of services unforeseeably exceeds that anticipated. A licensee shall inform the court, attorneys, and/or parties that unused fees will be refunded as soon as possible upon completion of the professional services.

2. If payment by a fee schedule is accepted, a licensee shall provide a complete explanation of the expected per-visit payment or other scheduled costs.

(d) A licensee may require payment for a report prior to its delivery provided that prior notification has been given to the parties under (a) above.

13:34-31.8 Reports and recommendations

(a) A licensee's written report shall identify the party or parties on whose behalf the evaluation was prepared and list all individual(s) personally evaluated.

(b) A licensee shall complete written reports in a timely manner. Delays of more than two months from when all data has been collected relevant to the custody/parenting time evaluation and/or termination of parental rights evaluation are considered excessive. In the event of extenuating circumstances, such as an inability to collect final documents from collateral contacts, the licensee shall provide the reasons for the delay, in writing, to the party to whom the report is due in accordance with (d), (e), and (f) below.

(c) A licensee shall not provide any opinion regarding any individual who has not been personally evaluated by the licensee. A licensee may report what an evaluated individual has stated or address theoretical issues or hypothetical questions, provided the limited basis of the information is explained.

(d) A licensee who is court-appointed shall submit the report only to the court and to both parties, or their attorneys, unless otherwise specified in a court order.

(e) A licensee who is selected by both parties shall submit the report only to both parties, or their attorneys, unless otherwise specified in a consent order.

(f) A licensee who is selected by only one party shall submit the report only to that party, or that party's attorney unless the party notifies the licensee in writing that the party does not want to receive the report.

TRANSPORTATION

(a)

MOTOR VEHICLE COMMISSION

Licensing Service

New Jersey Licensed Motor Vehicle Dealers

Adopted Amendments: N.J.A.C. 13:21-15

Proposed: October 7, 2013, at 45 N.J.R. 2178(a).

Adopted: March 12, 2014, by the Motor Vehicle Commission, Raymond P. Martinez, Chairman.

Filed: March 12, 2014, as R.2014 d.058, **with technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 39:10-4 and 39:10-19 et seq.

Effective Date: April 7, 2014.

Expiration Date: December 4, 2020.

Summary of Public Comments and Agency Responses:

1. COMMENT: James B. Appleton, President, New Jersey Coalition of Automotive Retailers, Inc. (NJ CAR), expressed NJ CAR's support for the proposed amendments and the Commission's commitment to bringing its regulations into conformance with existing law pertaining to the sale of new motor vehicles.

RESPONSE: The Commission appreciates the favorable comment to the proposed amendments and thanks NJ CAR for its support.

2. COMMENT: Mr. Appleton suggests that proposed N.J.A.C. 13:21-15.2(m), pertaining to initial applications, be amended to conform to the statutory definition of "motor vehicle franchisor," as set forth at N.J.S.A. 56:10-26, to include a person engaged in the business of "manufacturing, assembling or distributing," or importing new motor vehicles.

RESPONSE: The Commission agrees that the proposed rule should be changed to make it consistent with the definition of "motor vehicle franchisor" found at N.J.S.A. 56:10-26. However, the suggested change is too substantial to make upon adoption. Accordingly, the Commission will propose, in a future rulemaking, to amend N.J.A.C. 13:21-15.2(m) to conform to the statutory definition of "motor vehicle franchisor," as set forth at N.J.S.A. 56:10-26, to include a person engaged in the business of "manufacturing, assembling or distributing," or importing new motor vehicles.

3. COMMENT: Mr. Appleton suggests that proposed N.J.A.C. 13:21-15.2(m)1, pertaining to renewal applications, be changed to conform to the statutory definition of “motor vehicle franchisor,” found at N.J.S.A. 56:10-26, to include a person engaged in the business of “manufacturing, assembling or distributing,” or importing new motor vehicles.

RESPONSE: The Commission agrees that the proposed rule should be changed to make it consistent with the definition of “motor vehicle franchisor” found at N.J.S.A. 56:10-26. However, the suggested change is too substantial to make upon adoption. Accordingly, the Commission will propose, in a future rulemaking, to amend N.J.A.C. 13:21-15.2(m)1 to conform to the statutory definition of “motor vehicle franchisor,” as set forth at N.J.S.A. 56:10-26, to include a person engaged in the business of “manufacturing, assembling or distributing,” or importing new motor vehicles.

4. COMMENT: James C. Chen, Vice President, Regulatory Affairs, and Associate General Counsel, Tesla Motors, Inc. (Tesla), objects to the proposed requirement at N.J.A.C. 13:21-15.2(m), that an applicant for an initial license, and on renewal, submit “a copy of the applicant’s franchise agreement(s) with the motor vehicle manufacturer(s) whose makes and models the applicant is franchised to sell.” Mr. Chen states that the proposed amendments would force the closure of Tesla’s existing sales operations in New Jersey, requiring the layoff of 27 employees, because Tesla does not operate through franchised dealers. Mr. Chen further states that the proposed amendments are inconsistent with Commission practice, in that the Commission has previously licensed Tesla in two locations in New Jersey despite the fact that Tesla does not operate through franchised dealers.

RESPONSE: The Commission appreciates the commenter’s concerns regarding existing business operations in New Jersey and the proposed amendments’ potential effect on them. However, the proposed amendments requiring the submission of a franchise agreement ensure that existing statutory requirements pertaining to the sales of new motor vehicles are met. The prior issuance of a dealer license to Tesla does not negate the fact that the Franchise Practices Act, N.J.S.A. 56:10-1 et seq., requires that the sale of new motor vehicles be conducted through a franchised dealer.

5. COMMENT: Mr. Chen objects to the proposed amendment to N.J.A.C. 13:21-15.4(a), which requires that all new car dealers “maintain a permanent, properly identified location of not less than a total of 1,000 square feet ... and where there are included or immediately contiguous, clearly identified, fixed facilities to display at least two automobiles and equipment to service motor vehicles as required by N.J.S.A. 39:10-19.” Mr. Chen states that, “[d]epending on the type of dealership, [such as Tesla, a “small line-make”] displaying two vehicles is unnecessary.” Mr. Chen also argues that “an adjacent or attached service center does not meet any genuine customer need or State goal, provided that proper service facilities and customer service are otherwise available for every line-make.” Finally, Mr. Chen states that Tesla’s store locations in New Jersey malls do not provide sufficient space for the display of two automobiles and cannot accommodate the servicing of motor vehicles. Instead, Tesla has “separately established” service centers elsewhere, including a mobile service that provides house calls.

RESPONSE: The Commission appreciates the commenter’s concerns regarding existing business operations in New Jersey and the proposed amendments’ potential effect on them. However, the proposed amendments pertaining to minimum square footage, display area, and service equipment are statutory requirements, pursuant to N.J.S.A. 39:10-19. Although it had been Commission practice to apply the existing 72 square foot requirement (N.J.A.C. 13:21-15.4) to both used and new car dealers, that practice was based on an inapposite Chancery Court decision that applied to used car dealers. The Commission has determined that it is obligated to enforce the statutory requirements pertaining to minimum square footage, display area, and service equipment as they pertain to new car dealers. Again, the Commission’s previous issuance of a dealer license to Tesla does not negate the fact that New Jersey law requires the minimum square footage, display area, and service equipment included in the proposed amendments.

6. COMMENT: Mr. Chen states that the proposed amendments are inconsistent with statutory intent and that the Franchise Practices Act

“does not and cannot apply to companies that do not have any franchisees, such as Tesla....”

RESPONSE: The Commission disagrees. The Franchise Practices Act, N.J.S.A. 56:10-1 et seq., was established not only to protect franchisees in their relationships with franchisors, but also to establish a fair system for the sale of new motor vehicles, which system, in New Jersey, involves the sale of new motor vehicles through franchised dealers. N.J.S.A. 56:10-26 defines a “motor vehicle franchisor” as “a person engaged in the business of manufacturing, assembling or distributing new motor vehicles, or importing into the United States new motor vehicles manufactured or assembled in a foreign country, who will under normal business conditions during the year, manufacture, assemble, distribute or import at least 10 new motor vehicles.” This definition applies to Tesla, notwithstanding Tesla’s business model. The Franchise Practices Act further prohibits the sale of motor vehicles by a “motor vehicle franchisor” such as Tesla to a consumer, except through a motor vehicle franchisee. N.J.S.A. 56:10-27. Motor vehicle franchisors are also prohibited from operating a place of business as a motor vehicle franchisee, except under very limited conditions, which are not applicable to Tesla. N.J.S.A. 56:10-28.

7. COMMENT: Mr. Chen argues that the proposed amendments will have an adverse social impact because the proposed amendments requiring motor vehicle dealers to sell through franchised dealers are contrary to the governing statutes and are “blocking a legitimate and successful business model, decreasing competition, establishing a monopoly, stifling innovation, increasing pollution and dependency on oil and are at odds with the desires of NJ consumers....”

RESPONSE: The Commission disagrees. Please see the Responses to Comments 4 through 6 above. Additionally, there is no evidence that the franchise system results in a monopoly, the stifling of innovation, an increase in pollution, or dependency on oil. The protections of the Franchise Practices Act result in fair competition among new car dealers and prevent manufacturers from creating a monopoly, which ultimately results in a benefit to consumers.

8. COMMENT: Mr. Chen argues that the proposed amendments will have a negative economic impact because the proposed amendments would impose “new and unnecessary standards on dealers and facilities” and that “blocking a new entrant to the motor vehicle market will preclude investment into the State, impede and restrict commerce and inconvenience New Jersey consumers.”

RESPONSE: Please see the Responses to Comments 4 through 7 above. Additionally, it is noted that most, if not all, new car dealers in the State already comply with the proposed amendments. Further, Tesla is not being precluded from entering the new car market in New Jersey. As long as Tesla meets New Jersey’s statutory and regulatory requirements for operation of a new car dealership, Tesla is qualified for a New Jersey motor vehicle dealer license.

9. COMMENT: Mr. Chen argues that the proposed amendments will have an adverse impact on jobs, in that the closure of Tesla’s existing operations in New Jersey will result in the loss of 27 jobs, and eliminate 20 new positions.

RESPONSE: Please see the Response to Comment 4 above.

10. COMMENT: Mr. Chen argues that the proposed amendments violate due process and equal protection rights, and implicate the dormant commerce clause and Federal antitrust laws.

RESPONSE: The Commission disagrees. The proposed amendments enforce existing State law pertaining to the sale of new motor vehicles. All manufacturers, distributors, and dealers are treated the same as similarly situated manufacturers, distributors, and dealers under the existing and proposed regulations pertaining to motor vehicle dealers. Tesla, as a manufacturer, receives the same treatment as any other manufacturer seeking to sell new motor vehicles without selling those vehicles through a franchised dealer. Additionally, Tesla has presented no foundation for its argument that the proposed amendments would burden interstate commerce or “create a monopoly in favor of the traditional automotive dealers that sell vehicles through franchise arrangements.” Tesla has the same opportunities to sell new motor vehicles as other dealers in the State, subject to New Jersey law and regulations.

11. COMMENT: Mr. Chen states that the proposed amendments requiring the submission of a franchise agreement are more than

administrative in nature, "would require entirely restructuring both the Company and its way of doing business," and would impose "major regulatory burdens" on Tesla.

RESPONSE: The Commission disagrees. The requirement to have a franchise agreement is based on existing law. The submission of a copy of the franchise agreement is administrative in nature and will not result in more than de minimis cost or the need for professional services.

12. COMMENT: Mr. Chen argues that the proposed amendments exceed the Commission's rulemaking authority because the proposed amendments benefit few at the expense of the public.

RESPONSE: The Commission disagrees, based on the Responses to Comments 4 through 11 above. Additionally, the Commission has statutory authority to promulgate regulations enforcing the laws of New Jersey pertaining to the buying and selling of motor vehicles, and the proposed amendments are based on those existing laws.

13. COMMENT: Jane G. Chady, Executive Director of the New Jersey Manufactured Housing Association (NJMHA), a trade association representing manufactured housing in New Jersey, indicates that many of NJMHA's members have New Jersey motor vehicle dealer licenses and sell many types of manufactured homes from different manufacturers. Ms. Chady indicates that New Jersey does not have any manufactured housing franchise dealerships and she indicated that the NJMHA is requesting relief from the changes that require dealers to be franchisees. The business model for many of NJMHA's members is for the customers to select the home and manufacturer that they like; the home is then sold and installed on the customer's lot. The NJMHA is requesting relief from the change requiring dealers to be franchisees. They feel that the change would hurt business in New Jersey in general and residents of manufactured housing, in particular. Ms. Chady indicated that the Lemon Law distinguishes between issues relating to automobiles and those relating to manufactured homes by using terms such as "motorized" and "non-motorized."

RESPONSE: The definition of "motor vehicle" in N.J.S.A. 56:10-26.c. specifically excludes "... (2) those motor vehicles not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway;" so the Franchise Practices Act's definition of motor vehicle does not include manufactured homes. This definition of motor vehicle is applicable to N.J.S.A. 56:10-26 through N.J.S.A. 56:10-30. Accordingly, motorized homes are not required to be sold through franchised motor vehicle dealers by the Franchise Practices Act. The Commission agrees that the proposed rule should be changed to make it consistent with the definition of "motor vehicle" found at N.J.S.A. 56:10-26. However, the suggested change is too substantial to make upon adoption. Accordingly, the Commission will propose, in a future rulemaking, to amend N.J.A.C. 13:21-15.2(m) and (m)1, 15.3(a)4, and 15.4(a)1 and 2 to specifically indicate that the franchise requirement does not apply to the sale of motorized homes.

Summary of Agency-Initiated Changes:

The rules reflect requirements imposed by statute so they may be enforced as of the effective date of the statute. Upon adoption, the effective date of the requirements in N.J.A.C. 13:21-15.2(m) and 15.4(a)1 have been added to reflect the commencement of the 2014 licensing cycle for applicants who sell new motor vehicles. These changes are technical in nature and do not significantly enlarge or curtail the scope of the rules and their burden, enlarge, or curtail who or what will be affected by the rules, or change what is being prescribed, proscribed, or mandated by the rules.

Federal Standards Statement

A Federal standards analysis is not required because the rules governing the licensing of motor vehicle dealers are dictated by State statutes and are not subject to Federal requirements or standards.

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

SUBCHAPTER 15. NEW JERSEY LICENSED MOTOR VEHICLE DEALERS

13:21-15.2 Application

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

(d) The applicant for an initial license, or at least one officer, director, or controlling person, if the applicant is other than a natural person, shall attend a precicensure interview as scheduled by the Commission, at which time the applicant will be examined as to his or her knowledge of the lawful conduct of the business of buying, selling, or dealing in motor vehicles in New Jersey; in the event that the applicant cannot demonstrate adequate knowledge thereof, the Commission may require the applicant to attend a training program.

(e) (No change.)

(f) At the time of initial application, the applicant shall submit a list of all proposed authorized signatories to be listed on the license application and the licensee shall notify the Commission within 10 days of any change in that list on forms prescribed by the Commission; every application shall include an affidavit by each authorized signatory that he or she has not been convicted of a crime arising out of fraud or misrepresentation nor previously held a license issued by the Chief Administrator or the Commission, which license was revoked and not reissued.

(g)-(k) (No change.)

(l) At some time during the application process prior to licensure, the applicant shall submit a certificate of insurance demonstrating liability insurance covering all vehicles owned or operated by the dealer, at his or her request or with his or her consent. This insurance shall be in the amount of \$100,000 per person per incident up to \$250,000 per incident for bodily injury or death, \$25,000 per incident for property damage, and \$250,000 combined personal injury and property damage per incident. This insurance shall be renewed as necessary to ensure that it remains valid for the entire prospective license term.

(m) ***[At]* *As of April 1, 2014, at*** the time of initial application, an applicant who intends to sell new motor vehicles shall submit a copy of the applicant's franchise agreement(s) with the motor vehicle manufacturer(s) whose makes and models the applicant is franchised to sell.

1. ***[An]* *As of April 1, 2014, an*** applicant for renewal shall submit a copy of the applicant's franchise agreement(s) with the motor vehicle manufacturer(s) whose makes and models the applicant is franchised to sell.

(n) Misrepresentation of any facts or failure to fulfill any of the commitments made in the license application, including, but not limited to, commitments concerning the establishment of a place of business, shall be grounds for denial, suspension, or revocation of the license.

13:21-15.3 Proper person

(a) In order to be considered a proper person, an applicant must:

1. (No change.)

2. Be of sufficient good character, in the Chief Administrator's discretion, to warrant consideration as a proper person to be licensed as a dealer. To assist the Chief Administrator in making this determination, he or she may consider an applicant's financial responsibility, as well as whether or not the applicant has been involved in any illegal activities prior to applying for a license;

3. Not have been convicted of a crime arising out of fraud or misrepresentation; and

4. Be a motor vehicle franchisee under N.J.S.A. 56:10-26.d, as evidenced by the franchise agreement(s) referenced in N.J.A.C. 13:21-15.2(m).

(b) The Commission will request the New Jersey Division of State Police to place a State Bureau of Investigation Number flag pursuant to N.J.A.C. 13:59 on the fingerprint record of each person required to undergo a criminal background check pursuant to N.J.A.C. 13:21-15.2.

13:21-15.4 Established place of business

(a) All licensees shall maintain a permanent, properly identified location, as set forth at (a)1 and 2 below, at which place of business shall be kept and maintained the books, records and files necessary to conduct the business, including, but not limited to, all documents required by

N.J.S.A. 39:10-6, all payroll records, checkbooks, and ledgers for business accounts and trust accounts, all unissued temporary registrations, dealer reassignments, corporate authorities and licenses, dealer plates, and ledgers listing all issued and unissued temporary registrations, dealer assignments and dealer plates.

1. *[All]* *As of April 1, 2014, all* licensees selling new motor vehicles shall maintain a permanent, properly identified location of not less than a total of 1,000 square feet, on one or more than one floor, within a permanent, enclosed building and where there are included or immediately contiguous, clearly identified, fixed facilities to display at least two automobiles and equipment to service motor vehicles as required by N.J.S.A. 39:10-19.

2. All licensees selling used motor vehicles exclusively shall maintain a permanent, properly identified location with a minimum office space of 72 square feet within a permanent, enclosed building and where there are included or immediately contiguous, clearly identified, fixed facilities to display at least two automobiles.

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

(b) The established place of business shall display an exterior sign permanently affixed to the land or building, which sign is consistent with local ordinances and has letters easily readable from the major avenues of traffic. Said sign must reflect the dealer name or trade name, providing such trade name has been previously disclosed to the Commission.

(c)-(f) (No change.)

(g) All business records including, but not limited to, those set forth in (d) above, shall be maintained for three years on the licensed premises and shall be made available to the Commission during normal business hours on request.

1. (No change.)

(h)-(j) (No change.)

13:21-15.5 Grounds for rejection, suspension, or revocation of a dealer license or issuance of a cease and desist order

(a) The Chief Administrator may deny an application for a license, revoke or suspend a license after it has been granted, or issue a cease and desist order to a licensee or to an unlicensed person or entity engaged in activities for which a license is required pursuant to N.J.S.A. 39:10-19 et seq. for any of the following reasons:

1. The applicant or licensee is not a proper person as defined in N.J.A.C. 13:21-15.3;

2. The applicant has made a willful misrepresentation or omission in an application for a dealer license or renewal thereof under the provisions of this subchapter;

3. The applicant was a previous holder of a license that was suspended or revoked for cause by the Chief Administrator and the terms of such suspension have not been satisfied and/or the license has not been reissued;

4. One or more of the partners, officers, directors, other controlling persons, or employees of the applicant previously held a license issued under the authority of the Commission, which license was revoked for cause and never reissued or was suspended for cause and terms of suspension have not been satisfied, or have willfully violated a cease and desist order issued by the Chief Administrator;

5. (No change.)

6. The applicant or licensee seeks or has obtained a dealer license for the benefit of one who is not a proper person within the meaning of this subchapter;

7. The applicant or licensee knew or should have known that any employee, partner, officer, director, owner of a controlling interest, or agent of the applicant or licensee is an individual who has been convicted of a crime arising out of fraud or misrepresentation or previously held a license issued by the Chief Administrator or the Commission, which license was suspended or revoked for cause and not reissued;

8. The licensee fails to comply with the requirements of existing law governing the standards for used motor vehicles. (N.J.S.A. 39:10-26 through 39:10-30);

9. It is found by an administrative determination of the Commission that the subject applicant or licensee has engaged in the unlawful act of altering the true reading of an odometer (the mileage recording instrument of a motor vehicle). Evidence that such alteration was made

while the vehicle was in the possession of the applicant or licensee shall be prima facie proof that such alteration was performed by the applicant or licensee or with his or her consent;

10. It is found by an administrative determination of the Commission that the subject applicant or licensee has engaged in the unlawful act of altering a vehicle identification number (VIN). Evidence that such alteration was made while the vehicle was in the possession of the applicant or licensee shall be prima facie proof that such alteration was performed by the applicant or licensee or with the applicant's or licensee's consent;

11. (No change.)

12. The licensee has failed to maintain any of the qualifications for a license set forth in this subchapter or otherwise set forth by law, including, but not limited to, failure to maintain an established place of business as set forth in N.J.A.C. 13:21-15.4.

13. (No change.)

14. The licensee engaged in selling, displaying for sale or lease, or dealing in motor vehicles at a location other than that at which the licensed business is permanently established. The assertion by the licensee as a defense in any action that he or she has conducted sales activity at other than the premises where the business is permanently established shall constitute conclusive proof of that fact;

15. (No change.)

16. The licensee has failed to satisfy a valid, collectible judgment within 90 days of its entry against him or her;

17.-18. (No change.)

(b) Upon suspension, revocation, or denial of renewal of a license, or upon voluntary relinquishment of the license or dissolution of the dealership, the licensee shall forthwith return all Commission property, including, but not limited to, the dealer license, dealer plates, dealer reassignments, and temporary registrations, and shall account for all those not returned without refund for unused stock; failure to do so may result in suspension or revocation of the privilege to reapply for any business license within the jurisdiction of the Commission.

13:21-15.6 Transfer of ownership without title; presentation or reassignment of altered title documents; suspension; period of suspension; refusal to renew license

(a) No motor vehicle dealer licensed pursuant to N.J.S.A. 39:10-19, nor any person on his or her behalf, shall present to the Commission or reassign to a subsequent purchaser a motor vehicle title issued by this or any other state, province, or jurisdiction or any other title document that contains any erasure, obliteration, correction, or any other alteration where said alteration was reasonably detectable by a person of ordinary intelligence from a routine review of the motor vehicle title or any other title document.

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

(f) The Chief Administrator may revoke or refuse to renew a dealer license where the applicant has had two or more violations of (a) and/or (b) above, which violations resulted in a suspension pursuant to (d) above.

13:21-15.7 Responsibilities of licensee

(a) (No change.)

(b) The dealer shall be responsible for the disposition of all reassignments in his or her possession.

1. (No change.)

2. All dealer reassignments shall be accounted for upon request of the Commission.

3. (No change.)

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

13:21-15.9 Temporary registrations issued by licensed motor vehicle dealers for vehicles that are to be permanently registered in New Jersey

(a) (No change.)

(b) A temporary registration shall not be issued pursuant to this section if the motor vehicle dealer does not have in his or her possession a valid manufacturer's statement of origin or title for the vehicle and, if applicable, a valid dealer reassignment certificate for the vehicle.

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

(h) A temporary registration is not transferable from one motor vehicle dealer to another, nor from one vehicle to another. A temporary registration shall not be lent by a motor vehicle dealer to a customer, another motor vehicle dealer, or any other person or entity. A temporary registration shall not be issued for vehicles titled in the name of the motor vehicle dealer, or for vehicles covered solely by the dealer's insurance policy.

(i)-(r) (No change.)

(s) A motor vehicle dealer who violates any provision of this section shall, upon notice and an opportunity to be heard, have the privilege of issuing temporary registrations suspended. In addition, a motor vehicle dealer who commits such a violation may, upon notice and an opportunity to be heard, have the motor vehicle dealer's license suspended or revoked, or renewal thereof refused, by the Chief Administrator pursuant to N.J.S.A. 39:10-20.

(t) (No change.)

13:21-15.10 Nonresident temporary registrations issued by licensed motor vehicle dealers

(a) (No change.)

(b) A nonresident temporary registration shall not be issued pursuant to this section if the motor vehicle dealer does not have in his or her possession a valid manufacturer's statement of origin or title for the vehicle and, if applicable, a valid dealer reassignment certificate for the vehicle.

(c) (No change.)

(d) An applicant for a nonresident temporary registration pursuant to this section shall present proof to the motor vehicle dealer or authorized signatory of his or her out-of-State residence and of the name of the insurance company that is providing liability insurance coverage for the vehicle and the insurance policy number or binder number; such proofs shall be retained with the dealer's copy of the temporary registration.

(e)-(g) (No change.)

(h) A nonresident temporary registration is not transferable from one motor vehicle dealer to another, nor from one vehicle to another. A nonresident temporary registration shall not be lent by a motor vehicle dealer to a customer, another motor vehicle dealer, or any other person or entity. A nonresident temporary registration shall not be issued for vehicles titled in the name of the motor vehicle dealer or for vehicles covered solely by the dealer's insurance policy.

(i)-(q) (No change.)

(r) A motor vehicle dealer who violates any provision of this section shall, upon notice and an opportunity to be heard, have the privilege of issuing temporary registrations suspended. In addition, a motor vehicle dealer who commits such a violation may, upon notice and an opportunity to be heard, have the motor vehicle dealer's license suspended or revoked or renewal thereof refused by the Chief Administrator pursuant to N.J.S.A. 39:10-20.

(s) (No change.)

13:21-15.11 Dealer plates

(a) All dealer plates shall be accounted for in a logbook or ledger, for which the following information is listed for each dealer plate:

1. (No change.)

2. VINs of all vehicles to which the plate was assigned, along with dates of assignment; and

3. The location at which the vehicle to which the plate is assigned is garaged (if not on the dealer's premises).

(b) The logbook or ledger required pursuant to (a) above shall be maintained for at least three years.

(c) A motor vehicle dealer who fails upon the demand of the Commission to produce the logbook or ledger required pursuant to (a) above shall, upon notice and opportunity to be heard, be subject to suspension or revocation of the motor vehicle dealer's license or the suspension or revocation of the privilege of retaining dealer plates heretofore issued or purchasing additional plates.

(d)-(g) (No change.)

13:21-15.12 New motor vehicle inspection stickers

(a) All new motor vehicle inspection stickers shall be accounted for in consecutive order in a logbook or ledger, for which the following information is listed for each sticker:

1.-2. (No change.)

3. The year, make, and VIN of the vehicle to which the sticker was affixed, if applicable; and

4. (No change.)

(b) The logbook or ledger required pursuant to (a) above shall be maintained for at least five years.

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

(e) A motor vehicle dealer who fails upon the demand of the Commission to produce the logbook or ledger required pursuant to (a) above or voided stickers retained pursuant to (c) above or who fails to report, or falsely reports, the loss or theft of stickers, as required by (d) above, shall, upon notice and opportunity to be heard, be subject to suspension or revocation of the motor vehicle dealer's license.

(f) (No change.)

13:21-15.14 Hearings

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

(c) The hearing request must be in writing, must list all contested issues of material fact, issues of law, and mitigating circumstances that the applicant or licensee intends to demonstrate.

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

(g) Except in the case of extraordinary circumstances, it shall not be a defense to disciplinary action based on a failure to respond to a Notice of Proposed Disciplinary Action that the applicant or licensee was not present at the business address listed in the Commission's records.

(h) Nothing in this subchapter shall prevent the Chief Administrator from seeking to resolve any disciplinary matters through informal means at any stage of disciplinary proceedings described in this section.

13:21-15.15 Emergency disciplinary action

(a) In the event of an emergent situation, in which ongoing fraud, lack of insurance, destruction or vacation of premises, or other circumstances would jeopardize the integrity of the Commission's title records and the ability to prevent traffic in stolen or fraudulently titled motor vehicles, the Commission may immediately issue a preliminary suspension of the dealer's license.

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

(a)

DIVISION OF MULTIMODAL SERVICES

Transportation of Hazardous Materials

Adopted Amendments: N.J.A.C. 16:49-1.2, 1.3, 1.4, 2.1, 4.2, and 4.3

Proposed: March 18, 2013, at 45 N.J.R. 627(b).

Adopted: September 13, 2013, by Joseph W. Mrozek, Deputy Commissioner, Department of Transportation.

Filed: February 27, 2014, as R.2014 d.054, **with a technical change** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 39:5B-26, and 39:5B-31.

Effective Date: April 7, 2014.

Expiration Date: September 16, 2017.

Summary of Public Comments and Agency Responses:

Comments were received from Richard Kolodziej, President of NGVAmerica.

COMMENT: Mr. Kolodziej requested that the proposal be amended to reflect the fact that Federal hazmat restrictions do not apply in the case of fuel, including alternative fuels, which are stored onboard to power vehicles that are allowed access to certain tunnels in the State, specifically Route 29. The commenter points out that ". . . U.S. D.O.T. regulations do not explicitly state that the HAZMAT regulations do not extend to motor fuel used to propel a vehicle. These fuels are regulated