

**TRANSPORTATION**

**MOTOR VEHICLE COMMISSION**

**Executive and Administrative Service**

**Proposed Readoption with Amendments: N.J.A.C. 13:18**

Authorized By: Motor Vehicle Commission Board, Raymond P. Martinez, Chair, in consultation with Thomas Considine, Commissioner, Department of Banking and Insurance, as to N.J.A.C. 13:18-6.

Authority: N.J.S.A. 39:2-3, 39:2-3.3 et seq., 39:2A-36.1, 39:3-4e, 39:3-6.12b, 39:3-20, 39:3-43, 39:3-84, 39:5-30, 39:6-25, 39:6-50, 39:6-86.1, 39:6-86.4, 47:1A-1 et seq., 17:33B-41, 52:14B-3(1) and 54:39A-24, Pub. L. 102-240 §4008 and Pub. L. 103-322.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2010-230.

Submit comments by December 3, 2010 to:

Steven E. Robertson, Director  
Legal and Regulatory Affairs  
Motor Vehicle Commission  
225 East State Street  
PO Box 162  
Trenton, New Jersey 08666-0162

The agency proposal follows:

## Summary

The public comment period for this notice of proposal will be 60 days, since the notice is not listed in the agency rulemaking calendar. This notice of proposal is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The Motor Vehicle Commission (hereinafter “the Commission”) proposes to readopt with amendments the provisions of N.J.A.C. 13:18, Executive and Administrative Service, in accordance with N.J.S.A. 52:14B-5.1 and the “sunset” and other provisions of Executive Order No. 66 (1978). These rules are scheduled to expire on September 23, 2010, pursuant to N.J.S.A. 52:14B-5.1. By filing this notice of readoption prior to that date, the expiration date is extended to March 22, 2011, pursuant to N.J.S.A. 52:14B-5.1c. The Commission has reviewed these rules and has found them to be necessary and required for the purpose for which they were promulgated.

The rules contained in N.J.A.C. 13:18 implement the public policy of this State as set forth in various provisions of the Motor Vehicle and Traffic Laws, N.J.S.A. 39:1-1 et seq., pertaining to permits for overdimensional and overweight vehicles; reciprocal registration of commercial vehicles used in interstate commerce pursuant to the International Registration Plan (IRP); procedures pertaining to motor vehicle insurance verification; and guidelines for the posting of security deposits with the Commission by uninsured owners and operators who are involved in motor vehicle accidents. The rules also implement the International Fuel Tax Agreement (IFTA), N.J.S.A. 54:39A-1.1 et seq., concerning the reciprocal assessment and collection of motor fuel use taxes from

owners of commercial vehicles used in interstate commerce. The rules also set forth the Commission's organizational structure as required by N.J.S.A. 52:14B-3(1) and set forth procedures and fees for the inspection and purchase of government records in accordance with the New Jersey Drivers' Privacy Protection Act, N.J.S.A. 39:2-3.3 through 39:2-3.7, and the Open Public Records Act, N.J.S.A. 47:1A-1 et seq.

The subchapters of N.J.A.C. 13:18 are briefly summarized below, together with proposed amendments to various rules contained therein.

Subchapter 1, Permits for Overdimensional or Overweight Vehicles, sets forth the Commission's permit procedures for vehicles that exceed statutory dimensional or weight limitations. The subchapter establishes fees, expiration dates and minimum insurance coverage for such vehicles and sets forth escort vehicle, warning sign, warning flag and lighting requirements for overdimensional or overweight vehicle combinations that are subject to the subchapter. The Commission has adopted extensive amendments to this subchapter effective August 2, 2010 (see 42 N.J.R. 707(b), 1742(a)). Accordingly, the Commission has refrained from proposing amendments to N.J.A.C. 13:18-1 in this notice of rules proposed for readoption.

Subchapter 2, International Registration Plan, establishes the procedure for the reciprocal registration of commercial vehicles used in interstate commerce. The subchapter sets forth definitions of IRP terms; provides for the issuance of "Apportioned" license plates and registration certificates (cab cards); provides for the issuance of temporary registrations for New Jersey-based and out-of-State carriers; specifies the registration process for owner-operated vehicles, rental fleets, household

goods carriers and buses; and establishes recordkeeping requirements and audit procedures.

N.J.A.C. 13:18-2.1, which sets forth definitions of various words and terms used in N.J.A.C. 13:18-2, is proposed for amendment. The proposed amendment substitutes “household goods carrier” for “household good carriers” in the definition of that term set forth in the rule.

N.J.A.C. 13:18-2.6, part-year registration; vehicle deletion; credit, is proposed for amendment. Subsection (b), which pertains to the deletion of a vehicle from an apportioned vehicle fleet before the expiration of registration, is proposed for amendment by substituting “credentials issued for the vehicle” for “credential issued to the vehicle.”

N.J.A.C. 13:18-2.10, apportioned license plates; registration certificate (“cab card”), is proposed for amendment. Subsection (c), as proposed for amendment, provides that the Commission “may” issue distinctive validation stickers for affixation to apportioned license plates to indicate the month and year of expiration of the vehicle registration. The rule previously required the annual issuance of such validation stickers by the Commission.

N.J.A.C. 13:18-2.17, rental fleets, is proposed for amendment by proposing a technical change to subsection (b).

Subchapter 3, International Fuel Tax Agreement Implementation, establishes the procedure for the collection of motor fuel taxes by the State of New Jersey and the distribution of tax proceeds on a reciprocal basis to member states. The subchapter sets forth definitions of IFTA terms; provides the agreement application procedure for

New Jersey-based motor carriers engaged in interstate operations; provides for the issuance of IFTA cab identification cards and decals; provides for the submission of tax reports and tax payments; provides for the assessment of monetary penalties and interest for failure to file tax reports, for filing late tax reports or for underpayment of taxes; provides for the waiver of such penalties and interest under certain circumstances; provides for tax credits and refunds for fuel taxes paid on fuel consumed outside the jurisdiction where the fuel was purchased; sets forth recordkeeping requirements and audit procedures; and provides for IFTA license cancellation, suspension, revocation and reinstatement.

N.J.A.C. 13:18-3.3, identification card/license; identification markers/decals, is proposed for amendment by proposing a technical change to subsection (f) and to correct a punctuation error.

N.J.A.C. 13:18-3.6, tax reports; due dates, is proposed for amendment by proposing a technical change to subsection (b).

Subchapters 4 and 5 are reserved.

Subchapter 6, Insurance Verification, pertains to the submission of insurance information to the Commission by insurers concerning motor vehicle liability insurance policy cancellation due to nonpayment of premium. The subchapter also provides the administrative framework for the suspension of motor vehicle registrations and driver licenses by the Commission as a result of such insurance cancellation.

Subchapters 7 and 8 are reserved.

Subchapter 9, Uninsured Motorists, sets forth the circumstances when an uninsured owner or operator is required to deposit monies with the Commission to

secure reimbursement of personal injury protection benefits that have been paid by the Unsatisfied Claim and Judgment Fund or to secure payment in part of any judgment or judgments that may be entered against such uninsured owner or operator for damages arising out of a motor vehicle accident.

Subchapter 10 is reserved.

Subchapter 11, Organization of the Motor Vehicle Commission, contains the Commission's organizational structure as required by the Administrative Procedure Act, sets forth the procedures and fees for public inspection and purchase of government records maintained by the Commission and sets forth Commission rulemaking procedures. The subchapter comprehensively sets forth the procedures for accessing motor vehicle records and government records under the common law, the New Jersey Drivers' Privacy Protection Act and the Open Public Records Act.

N.J.A.C. 13:18-11.3, government records; examination; purchase of copies; exemption, is proposed for amendment. Subsection (d) is proposed for amendment, so as to correct a citation to a New Jersey statute. Subsection (d) is also proposed for amendment so as to substitute the word "Drivers'" for the word "Driver" in a reference therein to the New Jersey Drivers' Privacy Protection Act.

N.J.A.C. 13:18-11.4, fees; information search; exemption, is proposed for amendment. Subsection (d) is amended by deleting an erroneous subsection cross-reference to a non-existent subsection (h).

N.J.A.C. 13:18-11.8, notice of rulemaking proposals, is proposed for amendment. Subsections (c), (d) and (e) are amended by inserting "notice of proposal" and in subsections (a) and (b) by adding "notice of" to "proposal" references, so as to clarify

that the respective subsections each relate to the publication of a Commission rulemaking “notice of proposal” in the New Jersey Register. Subsections (c) and (e) are further amended by inserting the word “the” therein when referring in each of those subsections to a statement of “the” substance of the proposed action.

### **Social Impact**

The readoption of N.J.A.C. 13:18 will have a beneficial social impact in that the rules contained therein enhance highway safety, provide a source of recovery for certain classes of individuals who are injured by uninsured owners and operators and reimburse in part the Unsatisfied Claim and Judgment Fund for personal injury protection benefits paid out to persons who have been injured by uninsured owners and operators.

Subchapter 1, Permits for Overdimensional or Overweight Vehicles, promotes highway safety by regulating the operation of such vehicles or combination of vehicles on the public highways. For example, the subchapter promotes highway safety by requiring that operators of overdimensional or overweight vehicles comply with the escort vehicle, warning sign, warning flag and lighting provisions set forth therein that are intended to ensure that such vehicles are operated on the public highways in a manner that does not adversely affect the safety of other motorists.

Subchapter 2, International Registration Plan, promotes the efficient administration of State and Federal law pertaining to the reciprocal registration of commercial vehicles used in interstate commerce.

Subchapter 3, International Fuel Tax Agreement Implementation, promotes the efficient administration of State and Federal law pertaining to the reciprocal assessment and collection of motor fuel use taxes from owners of commercial vehicles engaged in interstate commerce.

Subchapter 6, Insurance Verification, implements the public policy of this State as set forth in N.J.S.A. 17:33B-41. The primary objective of N.J.S.A. 17:33B-41 and N.J.A.C. 13:18-6 is to provide an insurance reporting procedure for insurance companies that write motor vehicle liability insurance in this State to insure that owners of automobiles that are registered or principally garaged in New Jersey maintain motor vehicle liability insurance coverage. The subchapter also provides an administrative framework for the suspension of motor vehicle registrations and driver licenses by the Commission when an owner fails to provide acceptable proof of insurance or prove the existence of special circumstances that the Chief Administrator deems sufficient justification to withhold suspension activity. The subchapter enforces the compulsory motor vehicle liability insurance laws of this State and assists in reducing the number of uninsured motor vehicles in New Jersey, thereby lowering the cost of such insurance to the general public.

Subchapter 9, Uninsured Motorists, promotes the public welfare in that it provides a source of recovery for persons who have been injured or whose property has been damaged by uninsured owners and operators. This subchapter also protects the financial integrity of the Unsatisfied Claim and Judgment Fund by requiring a monetary deposit by an uninsured owner or operator when a qualified individual files a claim against the Fund for the payment of personal injury protection benefits.

Subchapter 11 is beneficial to the public in setting forth procedures for obtaining information and copies of government records from the Commission. As noted in the Summary above, the subchapter comprehensively sets forth the procedures for accessing motor vehicle records and government records under the common law, the New Jersey Drivers' Privacy Protection Act and the Open Public Records Act. Subchapter 11 is also beneficial in that it informs the public as to Commission rulemaking procedures.

The proposed rule amendments included in this notice of proposal will have no social impact on the State or the public.

### **Economic Impact**

There is an economic impact on the State in funding the Motor Vehicle Commission, which is charged with the administration of these rules.

There is an economic impact on those persons and entities that are subject to the provisions of Subchapter 1 since they are required to pay the applicable fees specified therein for the issuance of overdimensional or overweight permits and to comply with the minimum insurance, escort vehicle, warning sign, warning flag and lighting provisions also set forth therein. As noted in the Summary above, the Commission has adopted extensive amendments to N.J.A.C. 13:18-1 effective August 2, 2010 (see 42 N.J.R. 707(b), 1742(a)). Permit fee changes contained in that notice of adoption and the rationale therefor are specified therein. The Commission has refrained from proposing amendments to N.J.A.C. 13:18-1 in this notice of rules proposed for readoption.

There is an economic impact on those persons and entities based in New Jersey that are subject to the International Registration Plan since they pay the apportioned registration fees and assessments specified for the operation of commercial vehicles in interstate commerce, as well as applicable nonapportioned administrative transaction fees assessed by the Commission. See N.J.S.A. 39:3-6.11 et seq., and N.J.A.C. 13:18-2. There is an economic benefit to New Jersey-based motor carriers in that under the IRP they may register in New Jersey to conduct both intrastate and interstate operations in all member jurisdictions rather than registering motor vehicles in each state in which the motor carrier engages in intrastate commerce as was required under preexisting reciprocity statutes and agreements.

There is an economic impact on those persons and entities based in New Jersey that are subject to the International Fuel Tax Agreement since they remit the motor fuel use tax to the Commission when same is due and pay the fees specified for decals and temporary permits for the operation of commercial vehicles in interstate commerce. See N.J.S.A. 54:39A-1.1 et seq., and N.J.A.C. 13:18-3. There is an economic benefit to New Jersey-based motor carriers in that tax credits or refunds are made available under the IFTA for fuel purchased in New Jersey but used out-of-State and in that New Jersey-based motor carriers may, under the IFTA, purchase fuel decals in New Jersey for the operation of its vehicles in all member jurisdictions rather than purchasing motor fuel use decals in each state in which the motor carrier engages in interstate commerce as was required under preexisting motor fuel use tax statutes and rules.

Subchapter 6, Insurance Verification, imposes an economic impact on the Motor Vehicle Commission in that the Commission is responsible for the implementation and

administration of an insurance verification program, which satisfies the requirements of N.J.S.A. 17:33B-41. The Commission funds this program as provided by law. Insurance companies that are required to submit information pursuant to N.J.S.A. 17:33B-41 and N.J.A.C. 13:18-6 incur costs in connection with assimilating, preparing and supplying the required information to the Commission. Motorists whose driving and registration privileges are suspended by the Commission pursuant to N.J.S.A. 17:33B-41 and N.J.A.C. 13:18-6 for failure to maintain liability insurance on a motor vehicle are subject to the payment of a \$100.00 license restoration fee and a \$100.00 registration restoration fee to the Commission pursuant to N.J.S.A. 39:3-10a. Motorists may seek the rescission of an order of suspension of a vehicle registration or driver license pursuant to N.J.S.A. 17:33B-41d and g and N.J.A.C. 13:18-6.8. Such rescission requires, among other things, the payment of a civil penalty in the amount of \$4.00 for each day up to 90 days for which motor vehicle liability insurance was not in effect after cancellation for nonpayment of premium. Motorists are not obligated to seek such a rescission of suspension, and those choosing not to request such a rescission do not incur the above mentioned cost. Motorists who have surrendered registration plates to the Commission pursuant to N.J.S.A. 17:33B-41 and who thereafter acquire motor vehicle liability insurance coverage and furnish proof of same to the Commission incur a fee in connection with obtaining a set of replacement plates for those that have been surrendered to the Commission. Such motorists are required by N.J.A.C. 13:18-6 to pay a fee as set forth in N.J.A.C. 13:20-34.5(b) to the Commission for the set of replacement plates. Such motorists seeking the reissuance of registration plates that contain the same alpha-numeric combination as had been contained on the

surrendered plates must first pay the fee as specified above for replacement plates, to be followed by the payment to the Commission of a fee as set forth in N.J.A.C. 13:20-34.5(a)3 for the set of special plates.

Subchapter 9, Uninsured Motorists, imposes an economic impact on owners and operators of uninsured motor vehicles who are required to deposit monies with the Commission to provide a source of recovery for certain classes of individuals injured by uninsured owners and operators. There is a corresponding beneficial economic impact on injured individuals who are otherwise uninsured and on the Unsatisfied Claim and Judgment Fund, which expends funds for personal injury protection benefits to qualified individuals.

Subchapter 11 imposes fees for various records as specified in N.J.A.C. 13:18-11.4. The record fees are designed to offset Commission costs incurred in administering, processing and filing requests for such records. Many of the record fees in N.J.A.C. 13:18-11.4 were substantially revised by the Commission in 2009 through rulemaking pursuant to authority granted to the Commission by N.J.S.A. 39:2A-36.1. The rationale for the 2009 fee revisions, which is relevant to the record fees presently assessed pursuant to N.J.A.C. 13:18-11.4, is set forth at 41 N.J.R. 862(a) and 2681(a). No changes to the record fees are proposed herein.

The proposed amendment of N.J.A.C. 13:18-2.10(c) makes the issuance of validation stickers for apportioned license plates by the Commission permissive rather than mandatory, meaning the rule would no longer require the expenditure of monies by the Commission in connection with the issuance of such stickers. As to the other proposed rule amendments included in this notice of rules proposed for readoption,

such amendments will not economically impact the State, the public or any regulated entity.

### **Federal Standards Analysis**

Federal law (23 U.S.C. §127) establishes the Federal overall gross maximum weight limitation of 80,000 pounds for vehicles using the system of interstate and defense highways. The Federal legislation sets forth certain exceptions:

“... Provided, That such overall gross weight may not exceed eighty thousand pounds, including all enforcement tolerances, ... except for those vehicles and loads which cannot be easily dismantled or divided and which have been issued special permits in accordance with applicable State laws...”

Section 127, therefore, authorizes exceptions to the maximum gross weight limitation for those vehicles and loads which cannot be easily dismantled or divided and which have been issued special permits in accordance with applicable State laws. N.J.S.A. 39:3-84, which establishes an overall gross maximum weight limitation of 80,000 pounds consistent with 23 U.S.C. §127, provides in part:

“d. The Chief Administrator of the New Jersey Motor Vehicle Commission may promulgate rules and regulations, including the establishment of fees, for the issuance, at his discretion and if good cause appears, of a special written permit authorizing the applicant:

(1) To operate or move a vehicle or combination of vehicles or special mobile equipment, transporting one piece loads that cannot be

dismembered, dismantled or divided in order to comply with the weight limitations set forth in this act...”

The Chief Administrator’s exercise of discretion to issue a special overweight permit under N.J.A.C. 13:18-1, authorizing an exception to the 80,000 pound maximum weight limitation, is consistent with the exception authorized by the above referenced Federal law. N.J.A.C. 13:18-1 pertaining to permits for overdimensional and overweight vehicles is consistent with Federal law and does not impose requirements that exceed Federal standards.

N.J.A.C. 13:18-2, International Registration Plan, and the proposed amendments to rules in that subchapter set forth herein, and N.J.A.C. 13:18-3, International Fuel Tax Agreement Implementation, and the proposed amendments to rules in that subchapter set forth herein, do not impose compliance requirements that exceed Federal standards. These subchapters provide for the reciprocal registration of commercial vehicles used in interstate commerce and for the reciprocal payment of motor fuel use taxes by owners of commercial vehicles used in interstate commerce in accordance with State laws that have been enacted to comply with the Federal Intermodal Surface Transportation Efficiency Act, 49 U.S.C. §4008.

A Federal standards analysis is not required for N.J.A.C. 13:18-6, Insurance Verification, or N.J.A.C. 13:18-9, Uninsured Motorists, because the subject matters contained in those subchapters are authorized under State law (N.J.S.A. 17:33B-41, 39:3-4e, 39:6-25, 39:6-86.1 and 39:6-86.4) and are not subject to any Federal requirements or standards.

N.J.A.C. 13:18-11, Organization of the Motor Vehicle Commission, provides in part for the inspection, copying, examination and purchase of government records of the Commission. N.J.A.C. 13:18-11.3(f) sets forth requestor identification and request procedural requirements that comport with the New Jersey Drivers' Privacy Protection Act (see N.J.S.A. 39:2-3.4b). N.J.A.C. 13:18-11.3(f) requires the presentation of identification by the requestor as specified in the rule and provides for the completion and submission of a request form that includes the requestor's name and address; the requestor's driver license number or corporate identification number; the requestor's reason for requesting the record (which by statute may also include documentary evidence supporting the reason for the request); the driver license number or the name, address, and birth date of the person whose driver record is requested; the license plate number or VIN number of the vehicle for which a record is requested; and a description of the information the requestor is seeking in order to ensure that a copy of the appropriate record is provided. The requestor identification and request procedural requirements effectuate the New Jersey Drivers' Privacy Protection Act (N.J.S.A. 39:2-3.4) to protect the privacy rights of the citizens of New Jersey and to maintain in force New Jersey's long-standing prohibition against the use of personal information from motor vehicle records for political and commercial solicitation and marketing purposes. The New Jersey Drivers' Privacy Protection Act (N.J.S.A. 39:2-3.3 through 39:2-3.7) was enacted on August 5, 1997 and is more restrictive than the Federal "Drivers' Privacy Protection Act of 1994," 18 U.S.C. §§2721 et seq., in matters relating to the use of motor vehicle records for commercial solicitation and marketing purposes.

Although the proposed amendment to N.J.A.C. 13:18-11.3(d) that is included in this notice of rules proposed for readoption corrects an erroneous statutory citation to the New Jersey Drivers' Privacy Protection Act (a New Jersey legislative enactment that is more restrictive than Federal statutory provisions as noted above), the proposed rule amendment in and of itself does not impose requirements that exceed Federal standards. Likewise, the proposed amendments to N.J.A.C. 13:18-11.4(d) and to N.J.A.C. 13:18-11.8(c), (d) and (e) that are included in this notice of rules proposed for readoption do not impose requirements that exceed Federal standards.

### **Jobs Impact**

The Commission does not anticipate that any jobs will be generated or lost as a result of the rules proposed for readoption with amendments.

### **Agriculture Industry Impact**

The rules proposed for readoption with amendments will have no impact on the agriculture industry.

### **Regulatory Flexibility Analysis**

The rules proposed for readoption with amendments have been reviewed with regard to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

N.J.A.C. 13:18-1 requires owners or operators of overdimensional or overweight vehicles to obtain a permit for such vehicles. An undetermined number of such owners or operators are small businesses as defined in the Regulatory Flexibility Act. Fees are

charged pursuant to N.J.A.C. 13:18-1. Minimum insurance, warning sign, warning flag and lighting standards must be met, and applicable escort vehicle requirements must be complied with. While these requirements impose certain compliance costs on affected small businesses, no differentiation or exemption from the requirements is provided based upon the owner's or operator's business size because said requirements impact directly on the public safety on New Jersey highways.

N.J.S.A. 39:3-6.15 requires that “[a] registrant whose application for apportioned [IRP] registration has been accepted shall preserve its operational records for a period of three years after the close of the registration year.” In accordance with the statutory mandate, N.J.A.C. 13:18-2.21 sets forth recordkeeping requirements for New Jersey-based interstate carriers that are deemed necessary to properly administer the IRP statute. New Jersey-based interstate motor carriers are required to maintain and preserve operational records, including apportioned vehicle registration applications, temporary authorization permits and source documents for total mileage and in-jurisdiction mileage reported. These administrative rules form the basis for accurate reporting and collection of apportioned registration fees. The statute and, therefore, N.J.A.C. 13:18-2 apply to all registrants and do not provide an exemption from the recordkeeping requirements on the basis of business size. The recordkeeping, reporting and compliance requirements applicable to New Jersey-based motor carriers are similar to the requirements imposed under preexisting commercial vehicle registration reciprocity laws and agreements. The Commission is uncertain as to the initial capital cost and annual compliance cost to small businesses of maintaining the records required by the IRP statute and these rules. However, the rules proposed for

readoption should not require small businesses to engage additional professional or consulting services, since the records required to be maintained may be prepared by employees in the normal course of their employment. Therefore, the rules proposed for readoption do not impose significant burdens on small businesses in view of the overriding State interest in the administration of the IRP statute. Indeed single application for apportioned commercial vehicle registration to the State of New Jersey as the base state for New-Jersey based motor carriers under the IRP statute replaces the multi-state application requirements that were in force under the preexisting commercial vehicle registration reciprocity statutes and agreements.

N.J.S.A. 54:39A-9 provides as follows: “Every user shall keep records, in such form as the director reasonably may prescribe, as will enable the user to report and enable the director to determine the total number of over-the-road miles traveled by the user’s entire fleet of qualified motor vehicles, the total number of over-the-road miles traveled in New Jersey by said entire fleet, the total number of gallons of motor fuel used by said entire fleet, the total number of gallons of motor fuel purchased in New Jersey for said entire fleet, and such additional information as the director may prescribe as is required to determine the taxes payable or collectable under this act. All such records shall be safely preserved for a period of four years in such manner as to ensure their security and availability for inspection by the director or any authorized assistant engaged in the administration of this act. Upon application in writing, stating the reasons therefor, the director may, in the director’s discretion, consent to the destruction of any such records at any time within said period. The director or the director’s authorized agents and representatives may, at any reasonable time, inspect

the books and records of any user subject to the tax imposed by this act. The director shall provide by regulation for any such examination of books and records to be conducted at the office or offices of the user where such books and records are maintained.” In accordance with the statutory mandate, N.J.A.C. 13:18-3.12 sets forth recordkeeping requirements for New Jersey-based interstate motor carriers that are deemed necessary to properly administer the IFTA statute. New Jersey-based interstate motor carriers are required to maintain and preserve operational records pertaining to overall mileage, fuel purchases and fuel consumption for each IFTA jurisdiction. These administrative rules form the basis for accurate reporting and motor fuel use tax collection. The statute and, therefore, N.J.A.C. 13:18-3 apply to all “users” and do not provide an exemption from the recordkeeping requirements on the basis of business size. The recordkeeping, reporting and compliance requirements applicable to New Jersey-based motor carriers are similar to the requirements imposed under preexisting motor fuel use tax laws and regulations. The Commission is uncertain as to the initial capital cost and annual compliance cost to small businesses of maintaining the records required by the IFTA statute and these rules. However, the rules proposed for readoption should not require small businesses to engage additional professional or consulting services, since the records required to be maintained may be prepared by employees in the normal course of their employment. Therefore, the rules proposed for readoption do not impose significant burdens on small businesses in view of the overriding State interest in the administration of the IFTA statute. Indeed single reporting to the State of New Jersey as the base state for New Jersey-based motor

carriers under the IFTA statute replaces the multi-state reporting requirements that were in force under the preexisting motor fuel use tax statutes and rules.

N.J.A.C. 13:18-6 affects insurance companies that qualify as “small businesses” as that term is defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Insurers are required to submit on a monthly basis information relating to the cancellation of motor vehicle liability insurance policies because of nonpayment of premium and information concerning the issuance of new motor vehicle liability insurance policies. Additionally, the rules require insurers to submit semiannually, or at such other interval as may be specified by the Chief Administrator, information relating to all current motor vehicle liability insurance policies issued by them. An undetermined number of insurance companies that presently write automobile insurance policies in this State qualify as “small businesses.” The annual compliance costs to small businesses is limited to those costs incidental to making data programming changes that are necessary for the insurers to provide data in the format prescribed by the Chief Administrator. These costs vary depending on the existing capability of the information systems maintained by insurance companies. The rules do not require small businesses to engage additional professional services. Since one of the statutes that provides authority for the Commission’s rules, N.J.S.A. 39:3-4e, empowers the Commission to promulgate regulations “requiring insurers to provide all information with respect to the issuance, renewal, cancellation, nonrenewal and termination of insurance as the director may deem necessary to assist the division in enforcement of the provisions of this Title relating to insurance coverage for motor vehicles,” and since neither that statute nor N.J.S.A. 17:33B-41 provides for a small business exemption,

insurers qualifying as small businesses are not exempted from the reporting, compliance and other requirements imposed by the rules. The rules implement N.J.S.A. 17:33B-41 and enhance public compliance with this State's compulsory motor vehicle liability insurance laws by providing an insurance verification program that is dependent upon information submitted by insurance companies as to all passenger motor vehicles for which motor vehicle liability insurance has been cancelled, motor vehicles for which new motor vehicle liability insurance policies have been issued and motor vehicles for which liability insurance policies are in effect. The Commission would not be able to implement the statutory program if it is not apprised of insurance information by all insurers, since the Commission would only have a partial list of uninsured passenger motor vehicles and would therefore be unable to determine the universe of passenger motor vehicles that are not covered by liability insurance. Failure to include all insurance companies would create problems of proof for the Commission in enforcement proceedings and would inconvenience and potentially jeopardize the registration and driving privileges of motorists who comply with the compulsory motor vehicle liability insurance law by buying insurance from such nonreporting companies. Accordingly, since an exemption of insurers that qualify as small businesses from the rules would defeat the very purpose of the rules (that is, to enhance public compliance with this State's compulsory motor vehicle liability insurance laws and reduce the cost of such insurance to the public), a small business exemption from the reporting, compliance and other requirements set forth in the rules is not consistent with the statutory mandate.

N.J.A.C. 13:18-9 sets forth the circumstances in which the Commission may require an uninsured motor vehicle owner or operator to deposit monies with the Commission to secure payment in part of any judgment or judgments arising out of an accident in which an uninsured owner or operator was involved or to reimburse the Unsatisfied Claim and Judgment Fund for personal injury protection benefits paid out by the Fund to persons injured by uninsured owners or operators. While such deposits may be required of a small business, the rule's purpose (the protection of injured parties and the protection of the financial integrity of the Unsatisfied Claim and Judgment Fund) does not allow for exemptions or lesser requirements for small businesses that are impacted by this rule only if they fail to comply with the compulsory motor vehicle liability insurance laws of this State and operate or cause to be operated an uninsured motor vehicle in the State of New Jersey.

The record fees imposed by N.J.A.C. 13:18-11 are designed to offset Commission costs incurred. Therefore, no exceptions to such fees are provided based on business size.

The proposed rule amendments included in this notice of rules proposed for readoption do not impose additional compliance, reporting or recordkeeping requirements on small businesses or require small businesses to engage additional professional services; therefore, a regulatory flexibility analysis of the proposed amendments is not required.

### **Smart Growth Impact**

It is not anticipated that the rules proposed for readoption with amendments will have any impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan within the meaning of Executive Order No. 4 (2002).

### **Housing Affordability Impact**

The rules proposed for readoption with amendments will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules pertain to permits for overdimensional or overweight vehicles; the International Registration Plan; the International Fuel Tax Agreement; insurance verification; uninsured motorists; and the organization of the Motor Vehicle Commission.

### **Smart Growth Development Impact**

The rules proposed for readoption with amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey because the rules pertain to permits for overdimensional or overweight vehicles; the International Registration Plan; the International Fuel Tax Agreement; insurance verification; uninsured motorists; and the organization of the Motor Vehicle Commission.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:18.

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

## SUBCHAPTER 2. INTERNATIONAL REGISTRATION PLAN

### 13:18-2.1 Definitions

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

...

“Household goods carrier[s]” means **a** carrier (including owners, lessors/lessees and service representatives) handling:

1. - 2. (No change.)

...

### 13:18-2.6 Part-year registration; vehicle deletion; credit

- (a) (No change.)

(b) When a vehicle is deleted from an apportioned vehicle fleet before the expiration of registration, the registrant of the fleet shall notify the Commission on the prescribed forms and return to the Commission all credentials issued [to] **for** the vehicle.

1. - 3. (No change.)

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

13:18-2.10 Apportioned license plates; registration certificate (“cab card”)

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

(c) Distinctive validation stickers, of a design, size and shape prescribed by the Commission, [shall] **may** be issued [annually and affixed] **by the Commission for affixation** to the apportioned license plates to indicate the month and year of expiration of the vehicle registration.

(d) (No change.)

13:18-2.17 Rental fleets

(a) (No change.)

(b) Rental owner registrants engaged **in** the business of renting and/or leasing rental vehicles, such as tractors, single trucks and truck tractors (not including any one-way vehicles), with or without drivers, into or through one or more jurisdictions, shall apply for apportioned registration on forms prescribed by the Commission.

(c) - (h) (No change.)

### SUBCHAPTER 3. INTERNATIONAL FUEL TAX AGREEMENT IMPLEMENTATION

13:18-3.3 Identification card/license; identification markers/decals

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

(f) Decals shall be issued annually to coincide with the IFTA license, and **the** licensee's identification account number shall not be changed from year to year[,] unless the license is canceled or revoked. The Chief Administrator shall determine if the account number shall be changed or retained upon reinstatement of IFTA privileges and licensing after such cancellation or revocation.

(g) - (n) (No change.)

#### 13:18-3.6 Tax reports; due dates

(a) (No change.)

(b) Each licensee shall accompany the quarterly reports with a single remittance, in total amount equal to the net taxes due all member jurisdictions, made payable to **the** New Jersey Motor Vehicle Commission.

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

### SUBCHAPTER 11. ORGANIZATION OF THE MOTOR VEHICLE COMMISSION

#### 13:18-11.3 Government records; examination; purchase of copies; exemption

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

(d) Motor vehicle records shall be released in accordance with the provisions of the New Jersey Drivers' Privacy Protection Act (N.J.S.A. 39:2-[3.2]**3.3** through [39:2-]3.7, inclusive).

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

13:18-11.4 Fees; information search; exemption

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

(d) Except as otherwise provided in (g) [and (h)] below, governmental agencies are exempt from the fees set forth in this section.

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

13:18-11.8 Notice of rulemaking proposals

(a) When the Motor Vehicle Commission causes a rulemaking **notice of proposal** to be published in the New Jersey Register, the Motor Vehicle Commission shall distribute a notice of the rulemaking [proposal] **notice** to the news media maintaining a press office in the State House Complex.

(b) When the Motor Vehicle Commission causes a rulemaking **notice of proposal** to be published in the New Jersey Register, the Motor Vehicle Commission shall make available on its internet website ([www.state.nj.us/mvc](http://www.state.nj.us/mvc)) a notice of the rulemaking **notice of proposal**.

(c) When the Motor Vehicle Commission causes a rulemaking **notice of proposal** to be published in the New Jersey Register, the Motor Vehicle Commission shall mail either the notice of proposal, as filed, or a statement of **the** substance of the proposed action to those persons who have made timely requests to the Motor Vehicle Commission for notice of its rulemaking activity.

(d) When the Motor Vehicle Commission causes a rulemaking **notice of proposal** to be published in the New Jersey Register, the Motor Vehicle Commission

shall mail the notice of proposal, as filed, to a distribution list of organized entities that are the subject of or significantly related to the notice of proposal.

(e) When the Motor Vehicle Commission causes a rulemaking **notice of proposal** to be published in the New Jersey Register, the Motor Vehicle Commission shall post the notice of proposal, as filed, or a statement of **the** substance of the proposed action in the lobby of the Motor Vehicle Commission's administrative office at 225 East State Street, Trenton, New Jersey.