(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**

**MOTOR VEHICLE COMMISSION**

**Inspection of School Bus Driver Records**


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).


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. Vranick, Director Governmental Relations, New Jersey School Boards Association; and J. Marsden.

1. **COMMENT:** Mr. Vranick 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. Vranick 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. Vranick 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
TRANSPORTATION ADOPTIONS

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 employer 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 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 each of the two evaluations required yearly for three years after the date of execution of the evaluation;

5. (No change.)

Recodify existing 3-.4-. as 3-.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.

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 physicians 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 examination. 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 motorist, 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]*):

March 4, 2020
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

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.