

reinstatement of a CDL to a person who is disqualified from holding a CDL for life if that person used a commercial motor vehicle in committing a felony involving an act or practice described in paragraph (9) of section 103 of the Trafficking Victims Protection Act of 2000. The adopted amendments relating to qualifications to operate a CMV and interstate operation are equivalent to the Federal requirements that were adopted by the State at N.J.S.A. 39:5B-32 and N.J.A.C. 13:60-2.1.

The adopted amendments at N.J.A.C. 13:21-23.28(a) clarify New Jersey’s requirement that those operating CMVs in intrastate commerce must meet the physical requirements of 49 CFR 391.41. This is not a new requirement and it meets the Federal requirements as discussed above. The adopted amendments also clarify that the State of New Jersey does not have a medical variance or waiver program for intrastate commerce. Accordingly, those operating in intrastate commerce must comply with the physical requirements at 49 CFR 391.41 and are not eligible for a waiver of those requirements.

Adopted new N.J.A.C. 13:21-23.28(m) also meets the Federal requirements set forth at 49 U.S.C. § 31310 and the recent amendment to the Federal Motor Carrier Safety Regulations at 49 CFR 383.51.

Full text of the adoption follows:

SUBCHAPTER 23. COMMERCIAL DRIVER LICENSING

13:21-23.1 Definitions

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

... “Severe forms of trafficking in persons” means those acts as defined in the Federal law at 22 U.S.C. § 7102(11).

...

13:21-23.2 Driver application procedures; initial; examination permit; transfer from another State; renewal; upgrade; endorsements; form; fee; legal name defined

(a) To obtain a CDL, a person must meet the following requirements: 1.-2. (No change.)

3. If a person operates, or expects to operate, in interstate or intrastate commerce, meet the driver qualification requirements set forth at 49 CFR Part 391 and N.J.A.C. 13:60;

4.-8. (No change.)

(b)-(l) (No change.)

13:21-23.12 Requirements for passenger endorsement

(a) An applicant for the passenger endorsement must satisfy both of the following additional knowledge and skills test requirements, in addition to the requirements specified at N.J.A.C. 13:21-14.5:

1.-2. (No change.)

13:21-23.24 Ineligibility for reduction of lifetime revocation

(a) A person whose CMV driving privilege has been revoked pursuant to section 12(e) or 12(h) of the New Jersey Commercial Driver License Act or the similar law of any other State or jurisdiction because of his or her use of a CMV in the commission of a crime involving the manufacture, distribution, or dispensing of a controlled substance or controlled substance analog, or possession with intent to manufacture, distribute, or dispense a controlled substance or controlled substance analog, shall be ineligible to have his or her CMV driving privilege restored pursuant to N.J.A.C. 13:21-23.23.

(b) A person whose CMV driving privilege has been revoked in this or any other state or jurisdiction because of his or her use of a CMV in the commission of a felony involving an act or practice of severe forms of trafficking in persons shall be ineligible to have his or her CMV driving privilege restored pursuant to N.J.A.C. 13:21-23.23.

13:21-23.28 Interrelationship between basic driver’s license and CDL relative to suspension of driving privileges; rules of general application; specialized cases under the New Jersey Commercial Driver License Act; requirement for current medical examiner’s certification

(a) No person may operate a CMV while his or her CDL is suspended or revoked in this State. No person may operate a CMV while his or her basic driver license is suspended or revoked in this State. No person properly licensed in another state may operate a CMV in this State while his or her CDL is suspended in that state. No person may operate a CMV if the person is disqualified from holding a CDL pursuant to 49 CFR 383.51. No person may operate a CMV if the person has failed to meet the requirements of this subchapter or N.J.A.C. 13:60. No person may operate a CMV if the person has failed to meet the physical qualifications at 49 CFR 391.41, Physical Qualifications for Drivers. A waiver from the physical qualifications of 49 CFR 391.41, granted by the Federal Motor Carrier Safety Administration for interstate commerce pursuant to 49 U.S.C. § 31315, is limited to interstate commerce only. The Commission shall not issue waivers to persons who do not meet the physical requirements of 49 CFR 391.41.

(b)-(l) (No change.)

(m) Whenever a person uses a CMV in the commission of a felony involving an act or practice of severe forms of trafficking in persons, the person’s commercial driving privileges shall be revoked for life.

(a)

MOTOR VEHICLE COMMISSION

Transportation Network Companies

Readoption of Specially Adopted Amendments with Amendments: N.J.A.C. 13:21-26.1, 26.2, 26.3, and 26.7

Readoption of Specially Adopted New Rules with Amendments: N.J.A.C. 13:21-26.8 and 26.9 and 13:21-26 Appendix

Proposed: July 20, 2020, at 52 N.J.R. 1402(a).

Adopted: October 15, 2020, by the Motor Vehicle Commission, B. Sue Fulton, Chair and Chief Administrator.

Filed: October 30, 2020, as R.2020 d.126, with a non-substantial change not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 39:5H-23 and 39:5H-23.1.

Effective Date: October 30, 2020.

Expiration Date: September 9, 2027.

Summary of Public Comments and Agency Responses:

The written comments received by the Motor Vehicle Commission (Commission) regarding its July 20, 2020 notice of proposal at 52 N.J.R. 1402(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 on behalf of the following organizations submitted timely written comments to the Commission regarding the notice of proposal: Alix Anfang on behalf of Uber Technologies, Inc. (Uber); and Temilola Sobowale, Senior Counsel, Regulatory Compliance on behalf of Lyft, Inc. (Lyft).

1. COMMENT: Uber expressed the sentiment that ridesharing has the potential to improve mobility and safety for people throughout the State, that the hearts of its personnel remain with Samantha Josephson’s family and loved ones, and that it shares the Commission’s commitment to keeping motorists and riders safe.

RESPONSE: The Commission appreciates the comments of Alix Anfang on behalf of Uber, and Uber’s continuing support of policies and rules that honor the memory of Samantha Josephson and ensure the safety of motorists and riders.

2. COMMENT: Uber expresses concern regarding the proposed definition of “credential placard” (placard) to include the requirement that credential placards be on prearranged ride vehicles (vehicles). Uber understood the proposed definition of “credential placard” to include the requirement that credential placards be placed not only on rides originating inside New Jersey, but also rides that terminate in the State but

originate elsewhere. Uber argues that requiring placards on vehicles that begin trips in another state is beyond the Commission's jurisdiction.

3. COMMENT: Uber expresses concern that TNC drivers from Pennsylvania and New York may not be able to drop off in New Jersey because of the inclusion of the word "terminate" in the credential placard definition.

4. COMMENT: Lyft expresses that it believes the inclusion of "terminate" is inconsistent with the TNC Act and Sami's Law, which do not regulate rides that terminate in the State, and that regulation of rides that originate in other states exceeds the Commission's jurisdictional limitations.

RESPONSE TO COMMENTS 2, 3, AND 4: The Commission appreciates the concerns expressed by Uber and agrees that the original intent of Sami's Law was to enhance New Jersey Consumer Safety by ensuring that New Jersey riders beginning a prearranged trip inside New Jersey could confirm that they were about to enter the correct vehicles at the origination point of the rides. The intent of the requirement for credential placards to be placed on vehicles that terminate in the State was to ensure that a driver who transported a passenger from outside New Jersey to a destination in New Jersey understood that to accept a new fare in New Jersey, the driver would need to post the placard. The out-of-State transportation network company (TNC) is not prohibited from transporting passengers into the State, but without the New Jersey placard, is prohibited from picking up passengers in New Jersey. However, after careful consideration, the Commission believes that clarity would be better served by removing the word "terminate" from the definition, as the remainder of the definition is sufficiently clear. To be clear, drivers of prearranged rides cannot originate or pick up a ride in New Jersey when a first ride terminates in the State, if they do not have a credential placard on their vehicle. It is well known that drivers of prearranged rides commonly drop off (terminate) rides and then pick up (originate) rides in the immediate or nearby locale of their drop off, so that they can render continuous service. Drivers may not continue to do that on trips that cross state lines into New Jersey if they do not have a New Jersey credential placard. For example, if a driver originates a ride in New York and drops its riders off (terminates) in Newark, New Jersey, but does not have a New Jersey credential placard, the driver must return to New York with an empty vehicle, and is not permitted to pick up (originate) any ride before reentering the borders of New York.

The Commission does not agree with any suggestion that it did, or intended to, exceed its authority or that it lacks authority regarding trips originating in other states. Rather, it is clear that any vehicle originating a ride, which means picking up even a single passenger in the State, must have a credential placard.

5. COMMENT: Lyft comments that it supports all efforts to implement rules that will further the safety of rides offered through TNCs.

RESPONSE: The Commission appreciates the support of Lyft and reaffirms that the safety of riders is of paramount concern to the Commission.

6. COMMENT: Lyft commends the Commission's clarification that each vehicle must have a unique placard.

RESPONSE: The Commission appreciates Lyft's commendation.

Federal Standards Statement

A Federal standards analysis is not required because the subject matter of the readopted specially adopted new rules and amendments with amendments is authorized under State law and is not subject to Federal requirements or standards. There are no equivalent Federal laws or standards concerning TNCs.

Full text of the specially adopted new rules and amendments with other amendments follows (deletion from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 26. TRANSPORTATION NETWORK COMPANIES

13:21-26.1 Definitions

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

... "Credential placard" means a removable sign issued by a TNC to every TNC driver who provides prearranged rides that originate *[or terminate]* in the State, the form of which complies with the uniform credential template designed pursuant to N.J.S.A. 39:5H-23, and includes the first name of the driver; a high resolution, color picture of the driver; the license plate number of each personal vehicle associated with the driver; the state that issued the license plate; and the name of the TNC issuing the credential placard.

"High resolution picture" means a picture with a minimum resolution of 300 pixels per inch.

"Identifying marker" means a transportation network company's (TNC) distinctive sign, symbol, emblem, mark, and/or insignia, that is reflective, capable of being illuminated, or both, that identifies the TNC and that is issued to each TNC driver by the TNC.

"Machine-readable code or image" means an optical label provided by a TNC to a driver that can be scanned by a rider using a special scanner or personal mobile device with a built-in camera through the TNC's digital network.

"Mobile application" means a TNC's online-based technology application software that runs on a personal mobile device, such as a smartphone or tablet computer.

... "Personal mobile device" means any mobile device that an individual uses to connect to a TNC platform.

... "Times of darkness" means the time from a half-hour after sunset to a half-hour before sunrise; whenever rain, mist, snow, or other precipitation or atmospheric moisture requires the use of windshield wipers by motorists; and during any time when, due to smoke, fog, unfavorable atmospheric conditions, or for any other cause, there is not sufficient light to render clearly discernable persons and vehicles on the highway at a distance of 500 feet ahead.

... "Two-dimensional barcode" means a machine readable image that is created and provided by the TNC and is unique to each individual driver and driver's personal vehicle used to provide prearranged rides, and is capable of being scanned by a rider with a special scanner or a personal mobile device through the TNC's digital network or mobile application to confirm the identity of the driver and the personal vehicle for the prearranged ride. The barcode must store information on both the horizontal and vertical planes.

13:21-26.2 Application

(a)-(i) (No change.)

(j) Each application for a TNC permit shall be accompanied by proof that the TNC has established an identifying marker as required by N.J.S.A. 39:5H-23.b, a two-dimensional barcode or other machine-readable code or image as required by N.J.S.A. 39:5H-23.c, and a credential placard in compliance with, and as required by, N.J.S.A. 39:5H-23.1.a, and 39:5H-23.d. The TNC applicant shall attach the TNC's identifying marker, two-dimensional barcode or other machine-readable code or image, and credential placard in full color for recording by the Commission. The identifying marker, two-dimensional barcode, or other machine-readable code or image, and credential placard shall also be submitted to the Commission by email, to the address indicated on the application, in jpeg format, within 10 days of the TNC applicant's submission of the TNC application. The two-dimensional barcode or other machine-readable code or image may be included on the credential placard or as a separate document.

(k)-(n) (No change.)

13:21-26.3 Grounds for denial, suspension, or revocation of transportation network company permit; fines; issuance of a cease and desist order

(a) The Chief Administrator may deny an application for a permit or a renewal, permit, or issue a cease and desist order for:

1.-5. (No change.)

6. Failure to establish and submit an identifying marker as required by N.J.S.A. 39:5H-23.b; two-dimensional barcode or other machine-readable code or image as required by N.J.S.A. 39:5H-23.c; or credential placard as required by N.J.S.A. 39:5H-23.d;

7.-9. (No change.)

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

(d) The Chief Administrator may suspend or revoke a permit, after notice and an opportunity to request a hearing, for a TNC's failure to create, submit to the Commission, and issue two of each of the following to every driver that utilizes the TNC's digital network as a driver: a compliant identifying marker pursuant to N.J.S.A. 39:5H-23.b(1); a compliant two-dimensional barcode or other machine-readable code or image pursuant to N.J.S.A. 39:5H-23.c(1); and a compliant credential placard pursuant to N.J.S.A. 39:5H-23.d(1).

(e) The Chief Administrator may suspend or revoke a permit, after notice and an opportunity to request a hearing, for a TNC's failure to prohibit a driver who has not displayed the identifying markers, barcodes, or placards as required, from utilizing the TNC's digital network as a driver and from providing prearranged rides as required pursuant to N.J.S.A. 39:5H-23.g(1).

13:21-26.7 Issuance, display, and return of identifying markers

(a) A TNC shall issue two identifying markers to every TNC driver, which shall be displayed by the TNC driver in accordance with N.J.S.A. 39:5H-23.b(2), on the front windshield and rear window of the driver's personal vehicle while the driver is logged on to the TNC's digital network as a driver or is providing a prearranged ride. The identifying markers shall be reflective, capable of being illuminated, or both.

(b) (No change.)

(c) If the identifying markers are capable of being illuminated, the driver shall have the identifying markers illuminated and visible from the outside of the vehicle from a distance of 500 feet during times of darkness while the driver is logged on to the TNC's digital network as a driver or when the driver is providing a prearranged ride.

(d) A driver shall not allow the identifying markers on the driver's vehicle to be obstructed at any time when the driver is logged on to the TNC's digital network as a driver or when the driver is providing a prearranged ride.

(e) The identifying markers may be removable, but no driver shall log on to the digital network as a driver or provide a prearranged ride in his or her personal vehicle as a driver without displaying the TNC's identifying markers in accordance with this section.

(f) No person shall operate a vehicle bearing a TNC's identifying markers issued in accordance with this section without the authorization of the TNC issuing the identifying markers.

(g) A driver shall return the identifying markers issued pursuant to this section to the TNC within 30 days of the date the driver notifies the TNC that the driver is terminating status as a driver, or within 24 hours if the driver's status is terminated by the TNC and shall not provide prearranged rides using the TNC's digital network.

(h) The TNC shall notify the driver of this requirement to return identifying markers, and the timeframe in which the driver is to return them within 15 days after the date that the driver notifies the TNC that the driver is terminating status as a driver, or simultaneously with the notice of termination if the TNC terminates the driver.

13:21-26.8 Issuance, display, and return of two-dimensional barcodes or other machine-readable codes or images

(a) A TNC or its third-party designee shall create, and the TNC shall issue, two copies of a two-dimensional barcode or other machine-readable code or image to every driver, which shall be displayed by the driver in accordance with N.J.S.A. 39:5H-23.c, on the driver and passenger side rear windows of the driver's personal vehicle, and shall be scannable by a rider from the exterior of the vehicle while the driver is logged on to the TNC's digital network as a driver or is providing a prearranged ride. The

two-dimensional barcode or other machine-readable code or image may be included on the credential placard required at N.J.A.C. 13:21-26.9.

(b) The two-dimensional barcode or other machine-readable code or image shall be unique to each driver and to the driver's personal vehicle that is being used to provide prearranged rides, and it shall be capable of being scanned by a rider through the digital network or mobile application from the exterior of the vehicle to confirm the identity of the driver for a prearranged ride and the personal vehicle being used to provide the prearranged ride before the rider enters the vehicle.

(c) A driver shall not allow the two-dimensional barcode or other machine-readable code or image on the driver's vehicle to be obstructed at any time when the driver is logged on to the TNC's digital network as a driver or when the driver is providing a prearranged ride.

(d) The two-dimensional barcode or other machine-readable code or image may be removable, but no driver shall log on to the TNC's digital network as a driver or provide a prearranged ride in their personal vehicle as a driver without displaying the two-dimensional barcode or other machine-readable code or image in accordance with this section.

(e) A driver shall return all copies of the two-dimensional barcode or other machine-readable code or image to the TNC within 30 days of the date that the driver notifies the TNC that it is terminating status as a driver, or within 24 hours if the driver's status is terminated by the TNC, and shall not provide prearranged rides using the TNC's digital network.

(f) The TNC shall notify the driver of this requirement to return all copies of the two-dimensional barcode or other machine-readable code or image and the timeframe in which the driver is to return them within 15 days after the date that the driver notifies the TNC that the driver is terminating status as a driver, or simultaneously with the notice of termination if the TNC terminates the driver.

13:21-26.9 Issuance, display, and return of credential placards

(a) The Chief Administrator shall design a uniform credential placard template, as set forth at N.J.A.C. 13:21-26 Appendix, incorporated herein by reference. A TNC or its third-party designee shall create credential placards in a minimum size of four inches by six inches conforming to the template for each driver, which shall include the following information:

1. The first name of the driver, which name must be identical to the driver's name as it appears on the TNC's digital network and mobile application;

2. A high resolution, color picture of the driver, which picture must be identical to the driver's picture as it appears on the TNC's digital network and mobile application;

3. The license plate number of each the personal vehicle associated with the driver and the state that issued the license plate, for each vehicle used by a driver while logged on to the TNC's digital network as a driver;

4. The name of the TNC issuing the credential placard; and

5. As an option, the two-dimensional barcode or other machine-readable code or image required at N.J.A.C. 13:21-26.8.

(b) A TNC shall issue two credential placards to every driver for each vehicle used by the driver when logged on to the TNC's digital network as a driver, which shall be displayed by the driver in accordance with N.J.S.A. 39:5H-23.d, on the driver and passenger side rear windows of the driver's personal vehicle, clearly legible, and if the credential placard contains the barcode required by N.J.S.A. 39:5H-23.c and N.J.A.C. 13:21-26.8, the barcode shall be scannable by the rider from the exterior of the vehicle while the driver is logged on to the TNC's digital network as a driver or is providing a prearranged ride.

(c) The credential placards must be legible, and if the credential placard contains the barcode required by N.J.S.A. 39:5H-23.c and N.J.A.C. 13:21-26.8, the barcode must be scannable, and a driver shall not allow the credential placards on the driver's vehicle to be obstructed at any time when the driver is logged on to the TNC's digital network as a driver or when the driver is providing a prearranged ride.

(d) The credential placards may be removable, but no driver shall log on to the TNC's digital network as a driver or provide a prearranged ride in their personal vehicle as a driver without displaying the credential placards in accordance with this section.

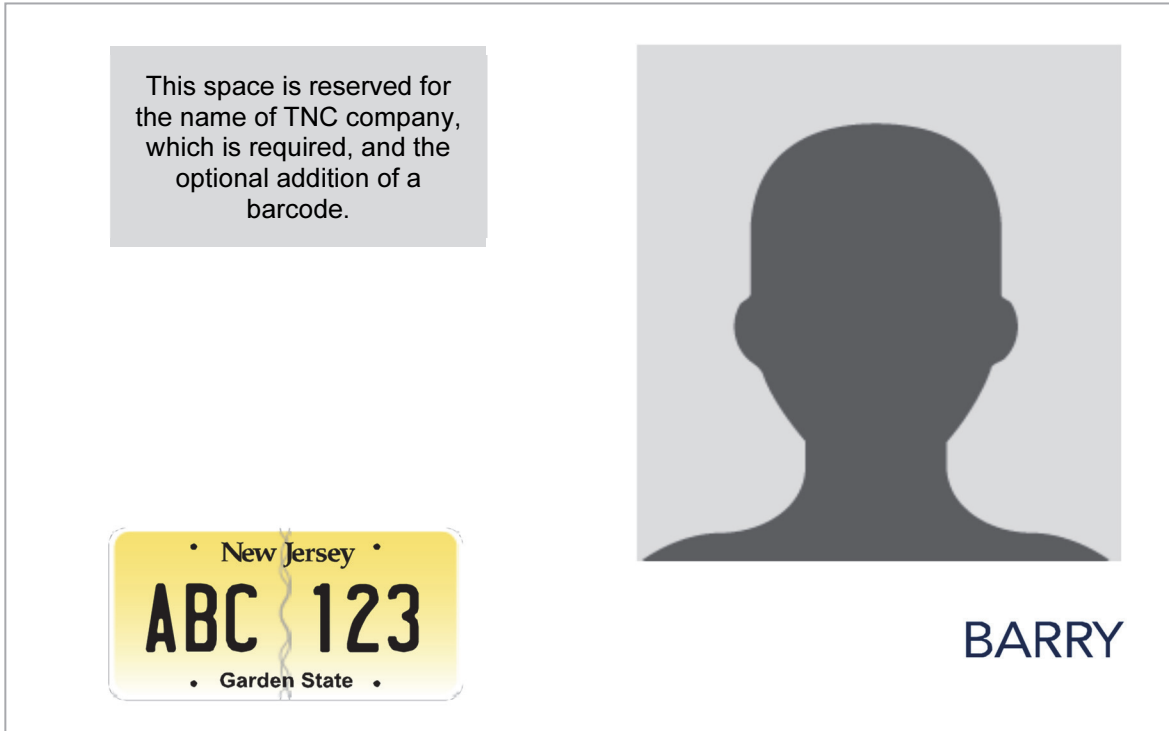
(e) A driver shall return all copies of the credential placards to the TNC within 30 days of the date that the driver notifies the TNC that the driver is terminating status as a driver, or within 24 hours, if the driver's status

is terminated by the TNC, and shall not provide prearranged rides using the TNC’s digital network.

(f) The TNC shall notify the driver of this requirement to return all copies of the credential placard and the timeframe in which the driver is

to return them within 15 days after the date a driver notifies the TNC that the driver is terminating status as a driver, or simultaneously with the notice of termination if the TNC terminates the driver.

APPENDIX



(a)

**MOTOR VEHICLE COMMISSION
Motorcycle Safety Education Program
Readoption with Amendments: N.J.A.C. 13:85**

Proposed: July 20, 2020, at 52 N.J.R. 1406(a).
 Adopted: October 15, 2020, by the Motor Vehicle Commission, B. Sue Fulton, Chair and Chief Administrator.
 Filed: October 30, 2020, as R.2020 d.127, **without change**.
 Authority: N.J.S.A. 39:2A-21, 39:2A-28, 39:3-10.31, and 27:5F-36; and Reorganization Plan No. 001-2005.
 Effective Dates: October 30, 2020, Readoption; December 7, 2020, Amendments.
 Expiration Date: October 30, 2027.

Summary of Public Comment and Agency Response:
No comments were received.

Federal Standards Analysis Statement

The rules readopted with amendments have no comparable Federal standard that can be applied; therefore, a Federal standards analysis is not required.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 13:85.

Full text of the adopted amendments follows:

SUBCHAPTER 1. PURPOSE, SCOPE, AND DEFINITIONS

13:85-1.3 Establishment of MSE course/levels of instruction

(a) (No change.)

(b) The Chief Administrator hereby adopts and incorporates by reference as the curriculum for each level of instruction and training the following:

1. For the Basic Skills Level course, the sequence of units identified in Appendix A to this chapter, developed by the MSF as set forth in the January 2018 MSF BRC Rider Coach Guide, as amended and supplemented.

2. For the Experienced Level course, the sequence of units identified in Appendix B to this chapter, developed by the MSF as set forth in the May 2003 MSF BRC 2 Suite Rider Coach Range and Classroom Cards, as amended and supplemented, and as set forth in the January 2018 MSF BRC Rider Coach Guide, as amended and supplemented.

3. For the Additional Practice Riding Course, the sequence of units identified in Appendix C to this chapter, developed by the MSF as set forth in the January 2018 MSF BRC Rider Coach Guide, as amended and supplemented.

4. (No change.)

(c) (No change.)

(d) Except where this chapter indicates otherwise, classroom and range instruction in the MSE course and the facilities and equipment used to provide the course shall be provided in accordance with the standards and requirements established by the MSF for the presentation of the MSF BRC, BRC 2 Suite, and Additional Practice Riding Course units as set forth in the January 2018 MSF BRC Rider Coach Guide, as amended and