

any reporting, recordkeeping, or compliance requirements on businesses of any size, including small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., a regulatory flexibility analysis is not required. The Department does not believe that any utility companies meet the definition of small business.

Housing Affordability Impact Analysis

The proposed new rule governs utilities, including pipelines, overhead power and communications lines, and underground electric power and communications lines. The chapter contains standards and requirements for utility accommodation on Department ROW. The existing rules had no impact on the affordability of housing in New Jersey or on the average costs of housing and the Department believes that it is extremely unlikely that the proposed new rule will affect housing, as it is only intended to aid in ensuring that abandoned pipelines are filled in or removed, lessening the chance that potentially dangerous situations will occur.

Smart Growth Development Impact Analysis

The proposed new rule governs utilities, including pipelines, overhead power and communications lines, and underground electric power and communications lines. The chapter contains standards and requirements for utility accommodation on Department ROW. The existing rules had no impact on smart growth development in New Jersey and the Department believes that it is extremely unlikely that the proposed new rule would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plain in New Jersey, as it is only intended to aid in ensuring that abandoned pipelines are filled in or removed, lessening the chance that potentially dangerous situations will occur.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Department has evaluated this rulemaking and determined that it will not have an impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State. Accordingly, no further analysis is required.

Full text of the proposed new rule follows:

16:25-8.10 Abandonment of pipelines

(a) The Department will not take ownership of any abandoned pipelines.

(b) Where a utility discontinues the use of a pipeline, the utility shall conduct abandonment of pipelines in accordance with the requirements of this section.

(c) For each pipeline abandoned in place:

1. The pipeline shall be removed; or

2. The pipeline shall be disconnected from all sources and supplies of liquids or gasses, filled with inert materials, and sealed at the ends.

(d) Pipelines that carry gas shall be purged. If air is used for purging, the operator shall ensure that no combustible mixture remains in the pipe after the purging.

(e) All abandoned vaults shall be filled with suitable compacted material.

(a)

**MOTOR VEHICLE COMMISSION
REGULATORY AFFAIRS (COMMERCIAL
PASSENGER TRANSPORTATION)**

Zone of Rate Freedom

Proposed Amendment: N.J.A.C. 16:53D-1.1

Authorized By: Motor Vehicle Commission, B. Sue Fulton, Chair and Chief Administrator.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 48:2-21, and 48:4-2.20 through 2.25.

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

Proposal Number: PRN 2019-041.

Submit written comments by May 31, 2019, to:

Kate Tasch, APO
Attention: Legal and Regulatory Affairs
New Jersey Motor Vehicle Commission
225 East State Street
PO Box 162
Trenton, NJ 08666-0162
or via e-mail to rulecomments@mvc.nj.gov

The agency proposal follows:

Summary

The Motor Vehicle Commission (Commission) proposes to amend the provisions of N.J.A.C. 16:53D, Zone of Rate Freedom. The Commission is statutorily obligated to establish for each calendar year a Zone of Rate Freedom (ZORF) for regular route private autobus carriers providing service within the State. See N.J.S.A. 48:4-2.21, as amended by P.L. 2003, c. 13, § 98. See also N.J.S.A. 48:4-2.20 through 2.25. The ZORF is the maximum permitted percentage increase adjustment and the maximum permitted percentage decrease adjustment that a private autobus carrier may make to its rate, fare, or charge for intrastate regular route service without first having to petition the Commission for approval. The maximum ZORF percentage amounts for increases and decreases take into account the varying fares currently charged by intrastate regular route private autobus operators. In accordance with N.J.S.A. 48:4-2.21, relevant factors that must be considered by the Commission in setting the ZORF percentages include, but are not limited to, the availability of alternative means of transportation; fluctuations in operational bus costs; and rates, fares, and charges existing in the bus industry and in other related transportation services, as well as the interests of the users of bus service in this State.

As long as the autobus carrier's fare adjustments remain within the designated ZORF percentage range, the carrier need only give notice to the Commission and the bus-riding public of the rate, fare, or charge adjustment. However, should a regular route private autobus carrier need a percentage fare adjustment greater than that allowed by the ZORF, the carrier will be required to comply with the petitioning procedures set forth in N.J.S.A. 48:2-21 and 48:2-21.1.

The ZORF percentage limitations set forth in N.J.A.C. 16:53D-1.1 apply only to regular route private autobus carriers. N.J.S.A. 48:4-2.25 authorizes the Commission to exempt rates, fares, and charges for regular routes in the nature of special (casino bus operations), charter, and special autobus operations from this rule, so long as carriers engaged in such operations file annual tariffs with the Commission.

N.J.A.C. 16:53D-1.1 consists of general provisions and standards that regular route private autobus carriers must follow, and specifies the maximum ZORF percentages for rate, fare, or charge increases and decreases for the calendar year and exempts student, senior, transfer, interline, and other unique rates, fares, or charges for a regular routes from the requirements of this chapter provided they remain less than the current or adjusted regular route fare applicable to the route.

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

Social Impact

The proposed amendments have a positive social impact in that they enable private autobus carriers to increase or decrease regular route fares marginally within established limits without having to undertake costly and time-consuming formal administrative proceedings. Since the ZORF fare adjustment mechanism allows autobus carriers to effectuate minor changes to their regular route fares without the necessity of making a complex, formal tariff filing with the Commission, the ZORF fare adjustment procedures result in cost and time savings for both the regulated industry and the Commission. The ZORF-controlled fare increases also encourage autobus carriers to invest in new buses and in the servicing and maintenance of their existing fleet of buses, while at the same time protecting the public from unreasonable fare increases. The ZORF percentage limit for fare decreases discourages predatory fare-reducing tactics designed to reduce or eliminate competition. In sum, the

ZORF fare adjustment mechanism has a positive impact upon the autobus industry and the Commission while also benefiting the public interest.

Economic Impact

The proposed amendments offer privately owned autobus companies a measure of flexibility in effectuating marginal adjustments to their regular route fares. Such companies can avoid the rate increase petition process set forth in N.J.S.A. 48:2-21 and 48:2-21.1, which is costly and time consuming, provided the fare adjustment that is sought remains within the percentage limits set forth in the ZORF rules. Although the ZORF provides a mechanism for regular route private autobus carriers to increase rates, fares, or charges, any adverse impact of such fare increases upon the public will be mitigated by the percentage limitations set forth in N.J.A.C. 16:53D-1.1. The ZORF percentage limitations are intended to ensure that only reasonable rate, fare, or charge increases will occur. The exemption of charter, casino, and special bus operations from the ZORF rules will have no adverse economic impact on the public because the competitive nature of these markets due in large part to their elastic demand, protects consumers from unreasonable rate, fare, or charge adjustments.

Federal Standards Statement

A Federal standards analysis is not required because the rule that is the subject of this rulemaking is dictated by State statutes and is not subject to Federal requirements or standards.

Jobs Impact

Although the ZORF rules could theoretically have an impact upon the jobs of private autobus carrier employees and the bus-riding public, no specific number of jobs generated or lost as a result of this rulemaking can be calculated. With limits on fare increases, private autobus carriers could conceivably adjust their employee levels to address financial constraints. Similarly, the ability of commuters to travel to their job sites could be affected by any changes made by such autobus carriers in bus routes or service to certain areas caused by shifts in employee staffing levels. However, it should be noted that rate change protection for both autobus carriers and commuters exists in other statutes and rules that govern rate changes outside the ZORF limits.

Agriculture Industry Impact

The proposed amendments will have no impact on the agriculture industry.

Regulatory Flexibility Statement

The proposed amendments affect private autobus carriers that are small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The proposed amendments do not impose any new reporting, recordkeeping, or compliance requirements on these autobus carriers. The proposed amendments set limits on rate modifications for which the procedure under N.J.A.C. 16:51-3 is not required.

Housing Affordability Impact Analysis

It is not anticipated that the proposed amendments will have any impact on housing affordability because the scope of the rules, inasmuch as it applies only to procedures for amending regular route autobus fares, is minimal, and there is an extreme unlikelihood that it would evoke a change in the average costs associated with housing.

Smart Growth Development Impact Analysis

It is anticipated that the proposed amendments will have only an insignificant impact, if any, on any new construction. Moreover, because the proposed amendment applies only to the procedures for adjustment of autobus fares, it does not apply to housing units at all. Thus, the scope of the proposed amendment is minimal and there is an extreme unlikelihood that the proposed amendment will evoke a change in the housing production within Planning Areas 1 or 2, or within designated centers under the State Development and Redevelopment Plan.

Racial and Ethnic Community Criminal Justice and Public Safety

The Commission has determined that the proposed amendments will have no impact on pretrial detention, sentencing, probation, or parole policies concerning juveniles and adults in the State. Accordingly, no further analysis is required.

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

SUBCHAPTER 1. GENERAL PROVISIONS

16:53D-1.1 General provisions

(a) Any regular route autobus carrier operating within the State, which carrier seeks to revise its rates, fares, or charges in effect as of the time of the promulgation of this rule, shall not be required to conform with N.J.A.C. 16:51-3.10, Tariff filings that do not propose increases in charges to customers, or 3.11, Tariff petitions that propose increases in charges to customers, provided the increase or decrease in the rate, fare, or charge, or the aggregate of increases and decreases in any single rate, fare, or charge is not more than the maximum percentage increase (10 percent for [2018] **2019**) or decrease (10 percent for [2018] **2019**), upgraded to the nearest \$.05.

1. For illustrative purposes, the following chart sets forth the [2018] **2019** percentage maximum for increases to particular rates, fares, or charges and the resultant amount as upgraded to the nearest \$.05:

<u>Present Fare</u>	<u>Percent of Increase</u>	<u>Increase Upgraded To Nearest \$.05</u>
\$2.00 or less	10.0%	\$.20
\$2.05-\$2.50	10.0%	\$.25
\$2.55 upward	10.0%	\$.30+

2. For illustrative purposes, the following chart sets forth the [2018] **2019** percentage maximum for decreases to particular rates, fares or charges and the resultant amount as upgraded to the nearest \$.05:

<u>Present Fare</u>	<u>Percent of Increase</u>	<u>Increase Upgraded To Nearest \$.05</u>
\$.50 or less	10%	\$.05
\$.55 to \$1.00	10%	\$.10
\$1.05 upward	10%	\$.15+

3. (No change.)