

(k) (No change.)

10:46D-2.2 Determination of financial ability to pay

(a) The individual, or his or her legally responsible relative, shall be required to apply for the Medicaid DDD Community Care [Waiver] **Program** and all other benefits and to provide financial information, including, but not limited to, assets, resources, income, or insurance. The individual, or his or her legally responsible relative, shall comply with all requirements of the Medicaid DDD Community Care [Waiver] **Program** and N.J.A.C. 10:46D-1.1 to maintain eligibility for benefits.

(b)-(j) (No change.)

SUBCHAPTER 3. TREASURY FORMULA-DDD

10:46D-3.1 DDD Formula A-DDD(A) for persons over age 18

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

(c) The individual, or his or her representative payee, is responsible to keep his or her accumulated funds under \$2,000 to ensure continued eligibility for the Medicaid DDD Community Care [Waiver] **Program** benefits.

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

(h) All earnings from employment below minimum wage shall be exempt from determining an individual’s available income and shall not be considered part of the individual’s disposable income. **Minimum wage is determined by the state in which an individual works.** Contributions to the cost of care and maintenance from employment earnings at or above minimum wage shall be computed similar to the way in which the Social Security Administration counts earned income for Supplemental Security Income purposes. Contributions shall be determined, as follows:

1.-4. (No change.)

(i) The individual, or his or her representative payee, may utilize the funds from earned income, as he or she determines appropriate, however, he or she is responsible to maintain continued eligibility for the Medicaid DDD Community Care [Waiver] **Program** benefits.

SUBCHAPTER 5. TERMINATION

10:46D-5.1 Notice of termination

(a) While N.J.S.A. 30:4-25.9 provides the Division with the ability to terminate any services to the eligible individual within [60] **90** days if the conditions of eligibility are not complied with, when the assessed contribution to the cost of care and maintenance is not received in a timely fashion, in all instances the Division will take a number of interim steps prior to initiating such final action, as delineated in this section.

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

(f) Should the individual and/or LRR(s) request a revision of the amount to be paid or notify the Division of an inability to pay in accordance with N.J.A.C. 10:46D-2.2[(l)](i), the Division shall investigate the circumstances.

1.-2. (No change.)

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

SUBCHAPTER 6. APPEALS PROCESS

10:46D-6.1 Appeals

(a) (No change.)

(b) Any change to unearned income or income from wages shall not be a basis for an appeal. Changes to income shall be addressed according to N.J.A.C. 10:46D-2.2[(h)](i).

(c)-(i) (No change.)

TRANSPORTATION

(a)

MOTOR VEHICLE COMMISSION

Zone of Rate Freedom

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

Authorized By: Latrecia Littles-Floyd, Acting Chair and Chief Administrator, Motor Vehicle Commission.

Authority: N.J.S.A. 39:2-3, 39:2A-21, 39:2A-28, 48:4-2.21, and 48:4-2.25.

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

Proposal Number: PRN 2023-103.

Submit written comments by January 5, 2024, to:

Emily Armstrong, APO
Attn: Legal Affairs
Motor Vehicle Commission
225 East State Street
PO Box 162
Trenton, NJ 08666-0162
or through email to: MVC.rulecomments@mvc.nj.gov

The agency proposal follows:

Summary

The Motor Vehicle Commission (Commission) proposes to amend the provisions at N.J.A.C. 16:53D, Zone of Rate Freedom, to fulfill its statutory responsibility to establish an annual Zone of Rate Freedom (ZORF) for regular route private autobus carriers providing service within the State, pursuant to N.J.S.A. 48:4-2.21. 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. If 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 seek a percentage fare adjustment other than that allowed by the ZORF, the carrier will be required to file a petition with the Commission and comply with the notice procedures set forth at N.J.A.C. 16:51-3.10 and 3.11. In proposing the ZORF for calendar year 2024, the Commission took into account several factors relevant to changes in the average costs of operating bus services, fares charged by public transportation, and the interests of the public who use private regular route bus services.

In assessing the effect of changes in the average costs of operating bus services, the Commission examined the average costs incurred by private autobus carriers in the past year for diesel fuel, commercial automobile insurance, health care, and labor. The Commission obtained data from the American Automobile Association, the New Jersey Department of Banking and Insurance, the New Jersey Department of Labor and Workforce Development, and the United States Social Security Administration. According to the historical data available, the average price per gallon of diesel fuel has decreased by approximately 25 percent since 2022. Rates for commercial auto insurance policies providing coverage to commercial vehicles, including autobuses, increased in New Jersey, on average, by approximately 20 percent within the last year. The average salary for bus drivers in New Jersey, including those employed by private autobus carriers, has increased on average by approximately four percent since 2022. The national average in the cost-of-living reflects an increase in general costs over the last year, with the most recent increase of almost nine percent taking place in 2023. Health care costs represent an important area of concern for autobus companies, impacting both small and large employers, as costs have increased by approximately 20 percent since 2022.

In addition to changes in the average costs of operating private regular route bus services, the Commission reviewed the history of fare increases implemented by New Jersey Transit and the potential effect of fare

changes on the public. New Jersey Transit’s fares have remained unchanged since they were last increased by nine percent in 2015. Thus, New Jersey Transit has not increased its fares in almost eight years. While New Jersey Transit is not subject to the fare increase or decrease rules that private regular route bus carriers are, and has a different funding mechanism than private regular route bus service, public transportation fare increases or decreases are nonetheless informative for comparative purposes.

The Commission further notes that it has not received any requests from private autobus carriers in the last three years, seeking rate increases or decreases greater than the 10 percent adjustment allowed by the established ZORF.

Thus, in balancing the significant increases in operating a private bus service, and the interests of the public in being able to absorb modest fare increases, the Commission has determined that a 10 percent ZORF for 2024 is reasonable.

The ZORF percentage limitations set forth at 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 casino, bus operations charter, and special autobus operations from this rule, so long as carriers engaged in such operations file rate schedules annually with the Commission, pursuant to N.J.A.C. 16:53D-1.3.

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

Social Impact

The Commission anticipates that the proposed 10 percent ZORF will have a positive social impact in that this range will enable private autobus carriers to increase or decrease regular route fares marginally within established limits without the necessity of having to file costly, time-consuming, complex, formal tariff petitions with 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.

Economic Impact

The proposed amendment offers privately owned autobus companies, a measure of flexibility in effectuating marginal adjustments to their regular route fares. Such companies, can avoid the time-consuming and costly rate increase or decrease petition process, provided the fare adjustment remains within the percentage limits set forth in the 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 at N.J.A.C. 16:53D-1.1. The ZORF percentage limitations are intended to ensure reasonable rate, fare, or charge adjustments. 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 proposed amendment is dictated by State statutes and are not subject to Federal requirements or standards.

Jobs Impact

The Commission does not anticipate that the proposed amendment will have any impact on jobs.

Agriculture Industry Impact

The proposed amendment will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Statement

Some private autobus carriers may be considered small businesses within the meaning of the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., in that they employ fewer than 100 full-time employees. The Commission is not required to, and does not, maintain a record of the number of private autobus carriers in the State that are small businesses employing less than 100 people full-time. The proposed amendment does not impose new reporting, recordkeeping, or compliance requirements on private autobus carriers, and is not likely to require the carriers to retain additional professional services to comply with such requirements. Rather, the proposed amendment allows private autobus carriers to impose marginal adjustments to their fares within the 10 percent range allowed by ZORF, as long as the carrier complies with the existing notice procedures set forth at N.J.A.C. 16:53D-1.2, which require the carrier to notify the Commission by filing a complete schedule of current fares and fares to be adjusted at least 30 days prior to the effective date of the new fare adjustment and post a public notice in all autobuses providing service on the regular routes to be affected by the adjusted fares and in all bus terminals served by those autobuses at least 30 days prior to the effective date of the new fare adjustment. In accordance with N.J.A.C. 16:53D-1.2, the carrier is specifically required to file a copy of the public notice with the Commission along with an affidavit certifying that it has posted such notice in the applicable autobuses, as prescribed by the rule. Any annual compliance costs generated by these requirements, such as printing the public notices to be posted and the postage required to file a notice and report compliance to the Commission, would be minimal. Additionally, the Commission does not anticipate that the proposed amendment will impose initial capital costs upon private autobus carriers that may be considered small businesses.

The proposed rule is specifically designed to minimize the economic impact on small businesses that are seeking a fare adjustment within the ZORF percentage limits, as it allows private autobus carriers to avoid the costly, formal petition process that would otherwise be required pursuant to N.J.A.C. 16:51-3.10 and 3.11.

Housing Affordability Impact Analysis

The Commission does not anticipate that the proposed amendment will have any impact on the affordability of housing costs because the scope of the proposed amendment, to the extent that it applies only to procedures for adjusting private regular route autobus fares, is minimal, and there is an extreme unlikelihood that the proposed amendment would evoke a change in the average costs associated with housing.

Smart Growth Development Impact Analysis

The Commission does not anticipate that the proposed amendment will have an impact on smart growth as there is an extreme unlikelihood that they would evoke a change in housing production within Planning Areas 1 or 2, or within designated centers, pursuant to the State Development and Redevelopment Plan because the proposed amendment pertains to the maximum permitted percentage adjustment that a private autobus carrier may make to its rate, fare, or charge for intrastate regular route service.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The proposed amendment will have no impact on pretrial detention, sentencing, probation, or parole policies concerning adults and juveniles in the State, as the rule only pertains to the maximum permitted percentage adjustment that a private autobus carrier may make to its rate, fare, or charge for intrastate regular route service. 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 [2023] 2024) or decrease (10 percent for [2023] 2024), upgraded to the nearest \$.05.

1. For illustrative purposes, the following chart sets forth the [2023] 2024 percentage maximum for increases to particular rates, fares, or charges and the resultant amount as upgraded to the nearest \$.05:

(No change in table.)

2. For [2023] 2024 purposes, the following chart sets forth the [2023] 2024 percentage maximum for decreases to particular rates, fares, or charges and the resultant amount as upgraded to the nearest \$.05:

(No change in table.)

3. (No change.)

(a)

NEW JERSEY MARITIME PILOT AND DOCKING PILOT COMMISSION

Rules of the New Jersey Maritime Pilot and Docking Pilot Commission

Proposed Readoption with Amendments: N.J.A.C. 16:64

Proposed New Rule: N.J.A.C. 16:64-8.5

Authorized By: New Jersey Maritime Pilot and Docking Pilot Commission, Timothy J. Dacey, President.

Authority: N.J.S.A. 12:8-1 through 12:8-53.

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

Proposal Number: PRN 2023-105.

Submit written comments by January 5, 2024, to:

Andre M. Stuckey, Executive Director
 NJ Maritime and Docking Pilot Commission
 One Penn Plaza
 9th Floor
 Newark, NJ 07205
 Email: Astuckey@njtransit.com

The agency proposal follows:

Summary

Pursuant N.J.S.A. 12:8-1 through 12:8-53, the New Jersey Maritime Pilot and Docking Pilot Commission (Commission) proposes to readopt N.J.A.C. 16:64, Rules of the Maritime Pilot and Docking Pilot Commission, with amendments and a new rule. These rules, which were initially adopted in 1993, were subsequently readopted in 1998 (see 25 N.J.R. 625(a); 2123(a) and 30 N.J.R. 764(a); 1810(a)). In 1999, the rules were repealed and replaced with a new chapter and then readopted in 2004, 2009, and 2016 (see 31 N.J.R. 6(b); 1084(b), 36 N.J.R. 2401(a); 4305(a), 41 N.J.R. 2884(a); 4455(a), and 48 N.J.R. 2422(a); 49 N.J.R. 1452(a)). Substantial amendments to the rules, including their recodification at N.J.A.C. 16:64 took place in 2004 pursuant to P.L. 2004, c. 72. This statutory amendment moved the Commission from an “in, but not of” agency of the Department of Environment Protection to the Department of Transportation. Additional amendments in 2005 and 2006, added new provisions for the regulation of docking pilots and apprentices. An amendment in 2008, provided for the recurrent training of all pilots. Amendments in 2001, provided for an addition to the route currency rules. Amendments in 2014, were made to fix errors/typos; correct regulatory citations; consolidate language to eliminate duplication and inconsistencies; combine certain requirements applicable to both docking pilots and maritime pilots into one section; and incorporate current Commission directives and policies. Lastly, amendments were made in 2021, to update the age requirements for persons seeking to become Maritime Pilot apprentices. All amendments were authorized pursuant to P.L. 2004, c. 72.

In compliance with N.J.S.A. 52:14B-5.1, the Commission reviewed the current chapter and determined that it remains adequate, reasonable, and necessary for the purposes for which it was originally promulgated, that is, for the better governance and regulation of maritime and docking pilots. N.J.A.C. 16:64 was scheduled to expire on April 24, 2024, pursuant to N.J.S.A. 52:14B-5.1.c; however, as the Commission filed this notice of proposed readoption with the Office of Administrative Law prior to that date, the expiration date is extended 180 days to October 21, 2024, pursuant to N.J.S.A. 52:14B-5.1.c(2). As a result of this review, the Commission also proposes amendments and additions to the rules to improve sections of them and align with current practices. As the Commission has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The existing rules proposed for readoption are summarized as follows:

Subchapter 1. General Provisions

N.J.A.C. 16:64-1.1 states the purpose and scope of the chapter.

N.J.A.C. 16:64-1.2 is the construction, severability, and waiver section.

N.J.A.C. 16:64-1.3 sets forth the chapter’s definitions.

N.J.A.C. 16:64-1.4 sets forth the incorporation by reference section.

N.J.A.C. 16:64-1.5 sets forth the operational procedures for the Commission.

N.J.A.C. 16:64-1.6 sets forth the fees for a ship to utilize the services of a licensed pilot.

N.J.A.C. 16:64-1.7 sets forth the requirement for a ship to utilize the services of a licensed pilot.

N.J.A.C. 16:64-1.8 sets for the penalty for failure to take a pilot.

Subchapter 2. Maritime Pilot Apprenticeship

N.J.A.C. 16:64-2.1 states the scope of the subchapter.

N.J.A.C. 16:64-2.2 discusses the availability and number of apprentices.

N.J.A.C. 16:64-2.3 discusses the qualifications of maritime pilot apprentices.

N.J.A.C. 16:64-2.4 sets forth the requirements a maritime pilot apprentice must complete prior to sitting for the licensing exam.

N.J.A.C. 16:64-2.5 sets forth criteria for the suspension or dismissal of apprentices.

N.J.A.C. 16:64-2.6 provides for the certification that the maritime pilot apprentices has completed all requirements of the apprenticeship.

N.J.A.C. 16:64-2.7 provides for the written examination of apprentices by the Commission.

Subchapter 3. Maritime Pilot Licensing

N.J.A.C. 16:64-3.1 states the scope of the subchapter.

N.J.A.C. 16:64-3.2 states the issuance of a deputy pilot license.

N.J.A.C. 16:64-3.3 states the oath pilots are required to take after passing their examination.

N.J.A.C. 16:64-3.4 states the route extensions for maritime pilots.

N.J.A.C. 16:64-3.5 sets forth the grades of licenses for maritime pilots.

N.J.A.C. 16:64-3.6 sets forth the process to suspend or reduce the grade or routes covered in a maritime pilot’s license.

N.J.A.C. 16:64-3.7 sets forth the procedure for a maritime pilot to have a license grade increased.

Subchapter 4. Maritime Pilot Boats and Stations

N.J.A.C. 16:64-4.1 states the scope of the subchapter.

N.J.A.C. 16:64-4.2 states the stations of maritime pilot requirements.

N.J.A.C. 16:64-4.3 sets forth the log book requirements.

Subchapter 5. Docking Pilot Apprenticeship Program

N.J.A.C. 16:64-5.1 states the scope of the subchapter.

N.J.A.C. 16:64-5.2 sets forth the availability and number of apprentices.

N.J.A.C. 16:64-5.3 states the qualifications for docking pilot apprentices.

N.J.A.C. 16:64-5.4 sets forth the requirements a docking pilot or apprentice must complete prior to sitting for the licensing exam.

N.J.A.C. 16:64-5.5 sets forth the criteria for the suspension or dismissal of a docking pilot apprentice.

N.J.A.C. 16:64-5.6 sets forth the certification and licensure of docking pilot apprentices.

Subchapter 6. Docking Pilots

N.J.A.C. 16:64-6.1 sets forth docking pilot licensing.