

## TRANSPORTATION

(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: Raymond P. Martinez, Chairman, Motor Vehicle Commission.

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 2014-057.

Submit written comments by July 7, 2014, to:

Kate Tasch, APO  
Attention: Regulatory and Legislative Affairs  
New Jersey 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 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 (the 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 route from the requirements of this chapter provided they remain less than the

current or adjusted regular route fare applicable to the route. This section is proposed for amendment to make no change in the ZORF, but to update the rule to indicate it is applicable for 2014.

#### 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 or decrease 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 or decreases 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 proposed amendments are dictated by State statutes and are 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 these amendments can be calculated. With limits on fare increases and decreases, 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 costs because the scope of the proposed amendments, inasmuch as they apply only to procedures for adjusting regular route autobus fares, is minimal, and there is an extreme unlikelihood that the amendments 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 amendments apply only to the procedures for adjustment of autobus fares, the amendments do not apply to housing units at all. Thus, the scope of the proposed amendments is minimal, and there is an extreme unlikelihood that they 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.

**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. 16:51-3.12, Tariff filings, that do not propose increases in charges to customers, or 3.13, 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 [2013] **2014**) or decrease (10 percent for [2013] **2014**), upgraded to the nearest \$.05.

1. For illustrative purposes, the following chart sets forth the [2013] **2014** 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 [2013] **2014** 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 Decrease</u>	<u>Decrease Upgraded To Nearest \$.05</u>
\$.50 or less	10%	\$.05
\$.55-\$ 1.00	10%	\$.10
\$1.05 upward	10%	\$.15+

3. (No change.)

**TREASURY — TAXATION**

**(a)**

**DIVISION OF TAXATION**

**SALES AND USE TAX REVIEW COMMISSION**

**Sales and Use Tax Review Commission Rules**

**Proposed New Rules: N.J.A.C. 18:24A**

Authorized By: Sales and Use Tax Review Commission, El-Rhonda Williams Alston, Executive Secretary.

Authority: N.J.S.A. 54:32B-42.

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

Proposal Number: PRN 2014-052.

Submit comments by July 4, 2014, to:

El-Rhonda Williams Alston  
Executive Secretary  
Sales and Use Tax Review Commission  
c/o Division of Taxation  
P.O. Box 269  
Trenton, NJ 08695-0269

The agency proposal follows:

**Summary**

Pursuant to N.J.S.A. 52:14B-5.1.b, N.J.A.C. 18:24A expired on October 18, 2013. The Division reviewed these rules and determined them to be necessary, reasonable, and proper for the purposes for which they were originally promulgated. In addition, the expired rules proposed herein as new rules have been updated, supplemented, and amended to take into account the process by which the Sales and Use Tax Review Commission (Commission) members review identical language from a prior session's legislation in a new bill before the Commission. P.L. 1999, c. 416, § 2 (N.J.S.A. 54:32B-37) created the Commission to review any bill, joint resolution, or concurrent resolution introduced in either House of the New Jersey Legislature that expands or reduces the New Jersey sales and use tax base. This review includes, but is not limited to, an analysis of a bill's or resolution's fiscal impact, any comments or recommendations concerning the legislation, and any alternatives to the legislation the Commission may suggest.

The other changes to the expired rules proposed herein as new rules include amending N.J.A.C. 18:24A-2.2 to clarify that meetings of the Commission are subject to the Senator Byron M. Baer Open Public Meetings Act, N.J.S.A. 10:4-6 through 21; adding new N.J.A.C. 18:24A-1.1A, Definitions, to set forth the meaning of "Commission" and "Act," which are used throughout the chapter; amending N.J.A.C. 18:24A-3.2 to clarify the time restrictions and other restrictions the Chair of the Commission may impose; and to amend N.J.A.C. 18:24A-3.4 to correct an error stating that the Division is reviewing a bill, the entity reviewing the bill would be the Commission.

The expired rules proposed herein as new rules outline the organization and operational procedures of the Commission. Subchapter 1, General Provisions, states the purpose of the Commission, and notes that the Commission is in, but not of, the Department of the Treasury. Subchapter 2 identifies the membership of the Commission and outlines procedures for Commission meetings. Subchapter 3 outlines procedures for the Commission to receive comments from the general public.

Because the Commission has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.3(a)5.

**Social Impact**

The duties of the Commission include rendering a fiscal impact determination and providing a brief policy analysis concerning proposed legislation that affects the sales and use tax base. Within 90 days after the introduction of such legislation, the Commission is required to provide its recommendations to the New Jersey Legislature.

Over time, public finance experts have identified a variety of characteristics that are desirable when enacting tax laws. Among those standards are equity and simplicity. The Commission will review legislation to see whether the tax burden is fairly distributed among the potential universe of taxpayers so that each taxpayer bears a fair share of that burden. In particular, the Commission will examine legislation to determine if it causes inequity by creating unjustified exemptions from the sales and use tax base when promoting public policy initiatives designed to provide investment incentives or promoting social change.

Simplicity in sales and use tax legislation is necessary to permit both retailers and customers to ascertain their tax collection and remittance responsibilities by simply reviewing the provisions of the proposed legislation itself, without the need of extensive interpretative rules. Simplicity is crucial to the effective implementation of sales and use tax