

Economic Impact

The proposed increase in CDS registration fees will have an economic impact on the 51,294 CDS registrants. The Acting Director has determined that the proposed fee increases are essential to raise the revenue necessary to continue the activities of the Drug Control Unit and PMP. The CDS registration fees have not been increased in at least 20 years. Although the amount of the increase is large, the respective fees are small; the Division believes that the impact on registrants will be minimal as will the impact on the public.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments are not subject to any Federal standards or requirements.

Jobs Impact

The Division does not anticipate that the proposed amendments will increase or decrease jobs in the State.

Agriculture Industry Impact

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

Regulatory Flexibility Analysis

If, for the purposes of the Act, the approximately 69 manufacturers, 65 distributors, 36 animal shelters, and 51,294 CDS registrants are considered "small businesses," then the following analysis applies.

The costs imposed by the proposed amendments are the same for all registrants in a category. The Board does not believe that CDS registrants will need to employ any professional services to comply with the requirements of the proposed amendments. The proposed amendments impose no reporting or recordkeeping requirements, but impose compliance requirements upon CDS registrants who will be required to pay the increased fee.

The proposed fee increase is set at a level sufficient to meet the ongoing costs associated with the activities of the Drug Control Unit. Therefore, no differing compliance requirements are provided for any registrant based on size.

Housing Affordability Impact Analysis

The proposed amendments will have an insignificant impact on the affordability of housing in New Jersey and there is an extreme unlikelihood that the proposed amendments would evoke a change in the average costs associated with housing because the proposed amendments concern fee increases for CDS registrations.

Smart Growth Development Impact Analysis

The proposed amendments will have an insignificant impact on smart growth and there is an extreme unlikelihood that the proposed amendments would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the proposed amendments concern fee increases for CDS registrations.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Division 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 proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS; REGISTRATION

13:45H-1.1 Registration fees

(a) Manufacturers of controlled dangerous substances shall pay an annual fee of [\$200.00] **\$400.00** at the time of application for registration or for renewal of registration.

(b) Distributors and reverse distributors of controlled dangerous substances shall pay an annual fee of [\$100.00] **\$200.00** at the time of application for registration or for renewal of registration.

(c) Dispensers of controlled dangerous substances or practitioners registered to conduct research with controlled dangerous substances

shall pay an annual fee of [\$20.00] **\$40.00** at the time of application for registration or for renewal of registration.

(d) Incorporated humane societies or licensed animal control facilities registered to purchase and administer sodium pentobarbital for the purpose of animal euthanasia shall pay an annual fee of [\$20.00] **\$40.00** for registration or renewal of registration as a Dispenser in the category of hospital/clinic.

(e)-(g) (No change.)

TRANSPORTATION

(a)

DIVISION OF MULTIMODAL SERVICES

BUREAU OF AERONAUTICS

Licensing of Aeronautical Facilities

Proposed Amendments: N.J.A.C. 16:54-1.2, 2.1, 3.1, 3.6, 11.4, 14.1, and 14.2; and 16:54 Appendix A

Authorized By: Diane Gutierrez-Scaccetti, Commissioner, Department of Transportation.

Authority: N.J.S.A. 6:1-29, 6:1-44, 27:1A-5, and 27:1A-6.

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

Proposal Number: PRN 2018-083.

Submit written comments by November 3, 2018, to:

Paul F. Sprewell
Administrative Practice Officer
New Jersey Department of Transportation
PO Box 600
Trenton, NJ 08625-0600
Fax: (609) 530-4638
Submit electronically at njdotRules@dot.state.nj.us.

This rule may be viewed or downloaded from the Department of Transportation's website at <http://www.state.nj.us/transportation/about/rules/proposals.shtm>.

The agency proposal follows:

Summary

N.J.A.C. 16:54 governs aeronautical facilities required to be licensed in the State of New Jersey. Upon review, the Department of Transportation (Department) has determined that amendments are necessary to reorganize and clarify text, delete unnecessary language, and include contact information. New provisions have been added to provide information related to appeals and contested cases.

The proposed amendments are as follows:

N.J.A.C. 16:54-1.2 is proposed for amendment to state the procedures for decisions regarding license applications and contested case hearings.

N.J.A.C. 16:54-2.1 is proposed for amendment to add a definition for "unmanned aircraft systems," also known as "drones." The definition of "aircraft" is proposed for amendment to include "unmanned aircraft systems (UAS) or drones" in the list.

N.J.A.C. 16:54-3.1(a)2 is proposed for amendment to delete the requirement that plan drawings be certified and for the submission of a scaled certified profile drawing. N.J.A.C. 16:54-3.1(a)2xi is proposed for deletion because the requirement is no longer Department policy. N.J.A.C. 16:54-3.6(c) is proposed for amendment to relocate language related to application denials as new N.J.A.C. 16:54-3.6(d) and to update the cross-reference from N.J.A.C. 16:54-11.3 to 14.1.

N.J.A.C. 16:54-11.4(b) is proposed for amendment to correct a cross-reference.

N.J.A.C. 16:54-14.1(a) is proposed for amendment to simplify language and to delete unnecessary language related to court reporters. N.J.A.C. 16:54-14.1(b) is proposed for amendment to add contact information. N.J.A.C. 16:54-14.1(c) is proposed for amendment to clarify that "30 days" means 30 calendar days of receipt of the request. New N.J.A.C. 16:54-14.1(d) is added to provide that applicants and

licensees will be notified in writing if a request for an informal hearing is denied. Existing N.J.A.C. 16:54-14.1(e), (f), (g), and (h) are proposed for deletion because the processes are no longer Department policy.

N.J.A.C. 16:54-14.1(f) is added to establish that applicants or licensees will receive a written decision within 30 calendar days of the informal hearing. Recodified N.J.A.C. 16:54-14.1(g) is amended for clarity. New N.J.A.C. 16:54-14.1(h) is added to establish provisions for appeals of the decisions from informal hearings.

N.J.A.C. 16:54-14.2(a) is proposed for amendment to clarify language regarding procedure and to correct a cross-reference. Existing N.J.A.C. 16:54-14.2(b) is recodified as (f) with no change in text. Proposed new N.J.A.C. 16:54-14.2(b), (c), (d), and (e) are added to set time limits for the supplying of the administrative law judge's initial decision, exceptions to the decision, response to the exceptions, and final written agency action.

N.J.A.C. 16:54 Appendix A is proposed for amendment to correct contact information.

This notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5, since the Department is providing a 60-day comment period for this notice of proposal.

Social Impact

The proposed amendments provide for the continuation of measures related to the Department's oversight role in ensuring aviation safety, and also ensure that interests of communities and the non-aviation public are fully considered. The proposed amendments establish standards that balance the needs of public safety, the safety of persons operating or using aircraft, and the safety of persons and property on the ground. The rules require aeronautical facility owners to submit written management and operating standards to the Bureau of Aeronautics (Bureau). Adherence to these standards will improve safety, enhance operations, and minimize adverse impacts to adjacent property owners and the general community. The proposed amendments continue to foster coordination between the Bureau, the aeronautical facility owner, and local governing bodies.

Economic Impact

The Department cannot precisely calculate the economic impact of maintaining public safety in the operation of aeronautical facilities and activities. Promotion of aviation and the availability of air transportation services enhance the vitality and diversity of the economy of the State and region and generate revenue for the State's economy.

The proposed amendments do not change any existing fee imposed or collected by the Bureau. New license applicants will continue to incur costs in preparing and implementing operating procedures. Renewal fees remain the same.

The continuing costs for currently licensed facilities or activities are of an upkeep nature and are, therefore, minimal. Many aeronautical facility capital safety and improvement costs incurred by public use aeronautical facilities can be offset by State aid available to such facilities through the Bureau of Aeronautics.

Federal Standards Statement

The proposed amendments are prescribed by State law. However, the design standards for all types of aeronautical facilities must meet the design requirements of Federal Aviation Administration Advisory Circular 150/5390-2. The proposed amendments meet, but do not exceed, any Federal law, standards, or requirements. Therefore, a Federal standards analysis pursuant to Executive Order No. 27 (1994), P.L. 1995, c. 65 is not required.

Jobs Impact

The proposed amendments are not expected to result in the generation or loss of jobs. The proposed amendments are intended to maintain public safety in the operation of aeronautical facilities and activities.

Agriculture Industry Impact

Since the proposed amendments are not intended to regulate farming, crop, or animal production, it is unlikely the proposed amendments will have any impact on the agriculture industry.

Regulatory Flexibility Analysis

The proposed amendments impose reporting, recordkeeping, and other compliance requirements on businesses that may be considered "small businesses," as the term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., and are discussed in the Summary above. Uniform application of these proposed amendments, however, is necessary due to the overriding need to promote aviation safety. Therefore, lesser requirements for small businesses have not been provided.

Housing Affordability Impact Analysis

This chapter governs aeronautical facilities required to be licensed in the State of New Jersey. The current rules have had no impact on the affordability of housing in New Jersey and the Department believes that it is extremely unlikely that the proposed amendments, as they refer only to aeronautical facilities and hearing requirements, will have any impact on the average costs associated with housing in New Jersey.

Smart Growth Development Impact Analysis

This chapter governs aeronautical facilities required to be licensed in the State of New Jersey. The rules have had no impact on Smart Growth Development in New Jersey and the Department believes that it is extremely unlikely that the proposed amendments, as they refer only to aeronautical facilities and hearing requirements, will evoke a change in housing production with Planning Areas 1 or 2, or within designated centers, under the New Jersey State Development and Redevelopment Plan.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

This chapter governs aeronautical facilities required to be licensed in the State of New Jersey. The current rules have had no impact on Racial and Ethnic Community Criminal Justice and Public Safety in New Jersey, and the Department believes that it is extremely unlikely that the proposed amendments, as they refer only to aeronautical facilities and hearing requirements, will have any impact on pretrial detention, sentencing, probation, or parole policies concerning adults or juveniles in the State. Therefore, no further analysis is required.

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

SUBCHAPTER 1. PURPOSE, SCOPE, AND APPLICABILITY

16:54-1.2 Scope

The rules specified in this chapter, if not in conformity with the laws, rules, and regulations concerning aeronautics set forth by the Federal Aviation Administration, are subject to preemption. If not specifically preempted by Federal standards, the ultimate authority over the regulating and licensing of aeronautical activities and facilities in New Jersey resides with the Commissioner, as provided for in N.J.S.A. 6:1-29 et seq. Decisions regarding denial, issuance, renewal, suspension, or revocation of licenses [shall ultimately be] **are decided by the Director of the Division of Multimodal Services, unless the Department forwards the case to the Office of Administrative Law for a hearing and initial decision as a contested case. The final agency decision is determined by the Commissioner.**

SUBCHAPTER 2. DEFINITIONS

16:54-2.1 Definitions

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

...

"Aircraft" means any contrivance now known or hereafter invented, used, or designed for air navigation or flight in the air. It includes, but is not limited to: airplanes, airships, blimps, dirigibles, gyroplanes, gliders, helicopters, hot air or gas balloons, seaplanes, tiltrotors, [and] ultralights, **and unmanned aircraft systems (UAS) or drones.**

...

"Unmanned aircraft systems (UAS)" or "drones" means an aircraft operated without the possibility of direct human

intervention from within or without the aircraft that is controlled by an operator on the ground.

SUBCHAPTER 3. APPLICATION FOR LICENSE

16:54-3.1 Application forms for permanent facilities

(a) All persons proposing the opening of a new aeronautical facility, the alteration to, or deactivation or abandonment of, an existing aeronautical facility listed in N.J.A.C. 16:54-1.3 shall submit to the Bureau an "Application for Aeronautical Facility License," Form DA-1, and "Aeronautical Facility Agreement," Form DA-2, or "Application for Aeronautical Facility Alteration, Deactivation, or Abandonment," Form DA-3, including all applicable attachments and FAA Form 7480-1 "Notice of Landing Area Proposal," if required. The forms may be found at <http://www.state.nj.us/transportation/airwater/aviation/forms.shtm>.

1. (No change.)

2. Unless otherwise specified in this chapter, submit a scaled [certified] plan drawing(s) or an annotated scaled aerial photograph, [and a scaled certified profile drawing,] showing the specific information required for the specific type of facility.

i.-x. (No change.)

[xi. For abandonment or deactivation of any facility, certified drawings are not required.]

3.-9. (No change.)

(b) (No change.)

16:54-3.6 Approvals

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

(c) If the application is approved, the applicant shall receive a license, Form DA-L-1, Aeronautical Facility License, for the facility upon completion of construction, final inspection, and approval by the Bureau. [If the application is denied, the applicant may petition the Commissioner for exemption in accordance with N.J.A.C. 16:54-11.3, Petition for Exemption.]

(d) If the application is denied, the applicant may request an informal hearing with the Director in accordance with N.J.A.C. 16:54-14.1.

SUBCHAPTER 11. WAIVERS AND EXEMPTIONS

16:54-11.4 Filing, decisions, and appeals

(a) (No change.)

(b) Rejected requests or petitions that will result in license denial, modification, suspension, or revocation, may be appealed in accordance with the provisions of N.J.A.C. 16:54-[13.3]14.1.

SUBCHAPTER 14. INFORMAL HEARINGS AND CONTESTED CASES

16:54-14.1 Informal hearings

(a) Licensees or applicants may request an informal hearing with the [Department] Director regarding **any of the following actions: a denial of a petition for exemption, a license suspension, [or revocation of] a license revocation, or [license application] a denial of an application for a license.** [A court reporter shall not be present at an informal hearing.]

(b) Requests for an informal hearing shall be made in writing to the Director within 20 **calendar days of receipt of the notice** related to any matters described in (a) above. **Requests shall be addressed to:**

**Director, Division of Multimodal Services
New Jersey Department of Transportation
1035 Parkway Avenue
PO Box 600
Trenton, NJ 08625-0600**

(c) If the [Department] Director determines that an informal hearing is appropriate, it shall be scheduled within 30 **calendar days of receipt of the request.**

(d) If the Director determines that an informal hearing is not appropriate, the applicant or licensee shall be informed in writing of the denial of the request for a hearing.

[(d)] (e) Informal hearings will be heard by the Director. The Director shall hear and review all evidence presented. Any records or documents produced or referred to by the licensee or applicant in an informal hearing shall be provided by the licensee or applicant to the [Department] Director at no cost.

[(e)] Within 45 days of the close of the hearing, the Director shall submit recommendations to the Commissioner regarding the matter. The recommendation shall be advisory in nature and not binding on the Commissioner. A copy of the recommendation shall be mailed to the licensee or applicant concurrently with its submittal to the Commissioner.

(f) Within 30 calendar days from the date the recommendation was mailed to the licensee or applicant, the licensee or applicant may submit written exceptions to the Commissioner. No additional submissions shall be allowed.

(g) Within 45 calendar days of the mailing of the recommendation to the licensee or the applicant, the Commissioner shall issue a final agency decision regarding the matter.

(h) Time extensions for submitting recommendations, exceptions, or replies and for the issuance of the final decision may be extended by the Commissioner for good cause pursuant to the provisions of N.J.A.C. 1:1-18.8.]

(f) The Director shall, within 30 calendar days of the close of the informal hearing, provide the licensee or applicant with a written decision to rescind, modify, or retain the original action.

[(i)] (g) The [Department] Director may, in instances where public exigency exists or where there is potential for substantial savings to the Department, [modify] **change** the time frames or any other requirements provided for in this section. In these instances, the Department shall document, for the record, the rationale for [such amendment] **the change** and give adequate notice to the licensee or applicant.

(h) If the licensee or applicant intends to challenge the decision in (f) above, an intent to appeal letter must be sent to the Director within 60 calendar days of the close of the hearing. The proceeding shall then be handled as a contested case. The intent to appeal letter shall be addressed to:

**Director, Division of Multimodal Services
New Jersey Department of Transportation
1035 Parkway Avenue
PO Box 600
Trenton, NJ 08625-0600**

16:54-14.2 Contested cases and uncontested cases

(a) The Department shall [determine whether a matter constitutes a contested case and shall] refer [any such matter] **each contested case** to the Office of Administrative Law for a hearing pursuant to the requirements of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq. [and] **The contested case shall be handled according to the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.**

(b) Within 45 calendar days of the close of the hearing, the administrative law judge (ALJ) shall submit a written initial decision and recommendations to the agency head and shall serve the parties of record with an indication of the date of receipt by the agency head.

(c) Within 13 calendar days from the date the ALJ's initial decision was mailed to the parties, any party may submit written exceptions to the agency head. No further evidence or submissions will be allowed. A copy of the exceptions must also be served on the other parties.

(d) Within five calendar days of receipt of exceptions, any party may submit a reply to the agency head and must also serve the other parties. Replies may include submissions in support of the initial decision.

(e) Within 45 calendar days of receipt of the initial decision, the Commissioner shall issue a written decision which adopts, modifies, or rejects the initial decision. The decision shall be considered a final agency action.

[(b)] (f) (No change in text.)

APPENDIX A
PUBLIC NOTICE

Notice of Proposed Aeronautical Facility Licensing

All submissions regarding this matter should be directed to:
[Office of Community Relations]

Bureau of Aeronautics
New Jersey Department of Transportation
1035 Parkway Avenue[, PO Box 600]
PO Box 600
Trenton, NJ 08625-0600
