

SUBCHAPTER 14. CLAIMING

13:71-14.2A Exemption from claim

(a) A horse **that is** entered into any claiming race governed by this subchapter shall be exempted from any claim of title, if:

1. Said horse has not [been entered] **started** in any race for a period of 180 days from the date of the last claiming race in which the horse was a starter;

2.-3. (No change.)

(b) (No change.)

13:71-14.17B Voidable claims

(a) A claim is voidable at the discretion of the successful claimant if:

1. A post-race test of the claimed horse pursuant to N.J.A.C. 13:71-14.32 returns a positive finding for any drug and/or substance foreign to the natural horse [; or]. **However, if the successful claimant races the horse prior to receiving the results of the post-race test, the claimant waives his or her right to void the claim. Further, if the claimant races the horse prior to receiving the results of the post-race test and the horse tests positive for any substance, including the substance that the horse tested positive for in connection with the race in which it was claimed, the claimant's trainer shall be liable for the positive post-race test in accordance with the rules of the Commission; or**

2. A claimed horse, after starting in the race from which it was claimed, and at the direction of the State Veterinarian, is ordered transported or "vanned off" via racetrack equine ambulance from the track. In such an instance, the claimant or his or her trainer shall have one hour from [post time] **off-time** of the race in which the horse was claimed to inform the [Judges] **judges** of his or her decision to void the claim. Should the claimant or his or her trainer **or representative** take possession of the horse and remove it from the detention barn or should the claimant or his or her trainer fail to communicate to the [Judges] **judges** his or her decision to void the claim **within one hour from off-time**, the claim shall be considered valid and the right to void the claim shall expire. Communication of the claimant's decision to void the claim may be made to the State Veterinarian who shall then log the time the decision was communicated and immediately contact the [Judges] **judges**.

13:71-14.18 Scratched horse

Should a horse that has been claimed be scratched prior to off-time, the claim on that horse shall become void. However, should the claimant of the scratched horse wish to continue with his or her claim, he or she may elect to do so by informing the horsemen's bookkeeper prior to off-time of the race that he or she wishes his or her claim to remain in effect despite the horse being scratched. Upon receiving such notification from the claimant, the horsemen's bookkeeper shall immediately inform the [Judges] **judges** of the claimant's decision to continue with the claim. Any horse drawn into a claiming race is eligible to be claimed, excepting those horses exempted pursuant to N.J.A.C. 13:71-14.2A. Horses entered in claiming races that have been cancelled by the New Jersey Racing Commission shall not be subject to claims. **Any horse entered into a claiming race due to an administrative error shall likewise not be subject to claims.**

1978 Executive Reorganization Plan; and Executive Order No. 65 (1997).

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

Proposal Number: PRN 2018-025.

Submit written comments by May 4, 2018, to:

Paul F. Sprewell
 Administrative Practice Officer
 New Jersey Department of Transportation
 PO Box 600
 Trenton, NJ 08625-0600
 Submit electronically at NJDOTRules@dot.nj.gov.

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

The agency proposal follows:

Summary

N.J.A.C. 16:53E establishes rules concerning the State's oversight of the safety of rail fixed guideway systems through the Department, designated as the State's oversight agency by Executive Order No. 65 (1997), which conform to the requirements established pursuant to 49 U.S.C. § 5329(e). The Office of Fixed Guideway Oversight in the Department is responsible for the administration of this chapter.

In April 2016, 49 CFR Part 674 replaced 49 CFR Part 659 and significantly strengthened a State Safety Oversight (SSO) Agency's authority to investigate accidents and oversee a rail transit agency's implementation of its System Safety Program Plan (SSPP) and Public Transportation Agency Safety Plan. Under 49 CFR 674, every state must establish an SSO program and ensure that the State Safety Oversight Agency is financially and legally independent from any rail transit agency that it oversees. The Federal Transit Administration (FTA) reviews and approves each state's SSO program standard, certifying whether states are meeting the statutory criteria. Also, the FTA can impose penalties on those states with non-existent or non-compliant safety oversight programs. The Department adopts and incorporates by reference 49 CFR Part 674, in the proposed new rules. The full text of the Federal regulations and all supplements and revisions can be found by examining the electronic versions of Federal regulations at <https://www.gpo.gov/fdsys>.

Because of the change to the Federal regulations, the Department evaluated Chapter 53E and determined that extensive revisions would be necessary. With this in mind, a full repeal and replacement of the chapter is proposed. Because the Department is providing 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 subchapters proposed for repeal are summarized as follows:

Subchapter 1, Purpose, Application and Scope, provides the purpose, scope, and applicability of the chapter; adopts and incorporates by reference the Federal Transit Administration rail fixed guideway systems state safety oversight regulations, and certain published guides, guidelines, reports, and manuals of the FTA; and establishes provisions regarding conflicts of interest.

Subchapter 2, Definitions, provides the definitions for terms used throughout the chapter.

Subchapter 3, Safety and Security Oversight Program Standards and Procedures, provides the requirements of the Department in its role as oversight agency.

Subchapter 4, System Safety Program Plan, provides the requirements and procedures for the system safety program plan.

Subchapter 5, System Security Plan, provides the requirements and procedures for the system security plan (SSP).

Subchapter 6, Department Approval of the System Safety Program Plan, establishes approval requirements for system safety program plans.

Subchapter 7, Department Approval of the System Security Plan, provides the approval process for system security plans.

Subchapter 8, Transit Agency Annual Internal Audit Reports, establishes requirements for annual audits.

TRANSPORTATION

(a)

**DIVISION OF MULTIMODAL SERVICES
 OFFICE OF FIXED GUIDEWAY SAFETY OVERSIGHT
 Fixed Guideway Systems State Safety Oversight
 Proposed Repeal and New Rules: N.J.A.C. 16:53E**

Authorized By: Richard T. Hammer, Commissioner, Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:25-8c, 48:2-12, and 52:14D-6; 49 U.S.C. § 5329(e); 49 CFR Part 674; October 5,

Subchapter 9, Department Safety and Security Review, establishes procedures for safety and security reviews.

Subchapter 10, Transit Agency Notification of Incidents, Accidents and Hazards, establishes requirements for transit agency notification of incidents, accidents, and hazards.

Subchapter 11, Transit Agency Investigation Reports on Incidents, Accidents and Hazards, provides reporting requirements.

Subchapter 12, Department Investigations, establishes procedures for Department investigations.

Subchapter 13, Corrective Actions, establishes procedures for corrective action plans.

Subchapter 14, Reports, provides contact information for the submission of reports and other required information.

The proposed new rules are summarized as follows:

Subchapter 1 provides the purpose, scope, and applicability of the rules and establishes that the Federal rules governing fixed guideway programs are incorporated by reference.

Subchapter 2 discusses the State Safety Oversight Program Standard.

Subchapter 3 provides requirements for required safety plans and includes Department contact information.

Social Impact

The rules proposed for repeal and the proposed new rules continue to promote safety in the operation of fixed guideway systems by providing for State safety oversight of fixed guideway systems in New Jersey. The transit agencies currently affected by these rules are the Hudson Bergen Light Rail, the Newark Light Rail, and the RiverLINE, which are owned by NJ Transit; the PATCO (Port Authority Transit Corporation) Speedline; and the Pine Creek Railroad, which is owned by the New Jersey Museum of Transportation and regulated under a memorandum of understanding between the Department and the Department of Community Affairs. These rules benefit the riders of these transit agencies by providing a plan for safety.

Economic Impact

The Department incurs direct and indirect costs for formulation, training, and contract support services for the State safety and security oversight program. Ongoing direct and indirect costs include the costs of personnel, equipment, and training.

The Department incurs other direct and indirect costs to comply with 49 CFR Part 674, including the submission of State safety oversight program documents to the FTA, annual reporting to the FTA of oversight activities, including a description of the most common causal factors of accidents and hazards; and periodic reports to the FTA of accidents, hazards, and corrective action plans. The transit agencies have been subject to this regulation since its implementation in 1997. The FTA removed "incidents" from the types of events requiring notification and investigation. This change reduces the administrative burdens on both the oversight agency and the transit agency.

The FTA can impose penalties on those states with non-existent or non-compliant safety oversight programs. Under 49 CFR 674.21(b), if a state fails to establish an SSO program that has been approved by the Administrator by April 15, 2019, the FTA will be prohibited from obligating Federal financial assistance apportioned under 49 U.S.C. § 5338 to any entity in the state that is otherwise eligible to receive that Federal financial assistance, in accordance with 49 U.S.C. § 5329(e)(3).

Federal Standards Statement

The rules proposed for repeal and the proposed new rules establish standards for fixed guideway systems that are consistent with 49 U.S.C. § 5329(e) and 49 CFR Part 674. The standards imposed by the rules do not exceed those set forth in these Federal laws.

Jobs Impact

Department personnel are responsible for the safety oversight of fixed guideway systems, including the review and approval of system safety program plans by transit agencies. Contract services are used as needed to provide support functions to the Department to review annual audit reports, conduct safety reviews, prepare safety review findings, establish investigation procedures, conduct investigations, review corrective action plans, and prepare initial or annual submissions to FTA. Transit agency employees perform similar duties for the fixed guideway system.

These duties include preparation and implementation of a system safety program plan which complies with the State safety oversight program standards and procedures, investigation and reporting of incidents, accidents and hazards, and performance of internal safety audits. The Department does not anticipate that jobs will either be created or lost as a consequence of the proposed repeals and new rules.

Agriculture Industry Impact

The rules proposed for repeal and the proposed new rules are not intended to regulate farming, crop, or animal production.

Regulatory Flexibility Analysis

In accordance with the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., the Department has determined that the rules proposed for repeal and the proposed new rules affect transit agencies and other fixed guideway systems, none of which are a "small business" as that term is defined in the act. The rules proposed for repeal and the proposed new rules continue to impose compliance requirements on all transit agencies and other fixed guideway systems as mandated by Federal law.

Housing Affordability Impact Analysis

The rules proposed for repeal and the proposed new rules govern the State's oversight of the safety of rail fixed guideway systems in the State of New Jersey. The current rules had no impact on the affordability of housing in New Jersey and the Department believes that it is extremely unlikely that the rules proposed for repeal and the proposed new rules will have any impact on the average costs of housing in New Jersey.

Smart Growth Development Impact Analysis

The rules proposed for repeal and the proposed new rules govern the State's oversight of the safety of rail fixed guideway systems in the State of New Jersey. The current rules have had an insignificant impact on smart growth and there is an extreme unlikelihood that the rules 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.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 16:53E.

Full text of the proposed new rules follows:

CHAPTER 53E

FIXED GUIDEWAY STATE SAFETY OVERSIGHT

SUBCHAPTER 1. PURPOSE, SCOPE, AND APPLICABILITY

16:53E-1.1 Purpose

This chapter establishes rules concerning the State's oversight of the safety of rail fixed guideway systems through the Department of Transportation (Department), designated as the State's oversight agency by Executive Order No. 65 (1997). This chapter carries out the mandate of 49 U.S.C. § 5329(e) for State safety oversight of rail fixed guideway public transportation systems. The Office of Fixed Guideway Oversight in the New Jersey Department of Transportation is responsible for the administration of this chapter.

16:53E-1.2 Scope and applicability

(a) Rail fixed guideway public transportation systems are any fixed guideway system that uses rail; is operated for public transportation; is within the jurisdiction of this State; and is not subject to the jurisdiction of the Federal Railroad Administration or any such system in engineering or construction. Rail fixed guideway public transportation systems include, but are not limited to, rapid rail, heavy rail, light rail, monorail, trolley, inclined plane, funicular, and automated guideway.

(b) This chapter is applicable to rail fixed guideway public transportation systems that operate exclusively within the boundaries of this State or between this State and adjacent states; and entities that own or operate rail fixed guideway public transportation systems with Federal financial assistance authorized under Chapter 53 of Title 49 of the United States Code.

(c) This chapter is applicable to every transit agency operating exclusively within the boundaries of this State or between this State and

adjacent states. The Department may designate other fixed guideway systems to which this rule shall apply.

(d) Except as provided in N.J.A.C. 16:53E-1.3, nothing in this chapter prevents the transit agency or the Department from using contractors or consultants (public, non-profit, or private) to assist with their respective duties under this chapter or in the course of their respective business operations.

16:53E-1.3 Conflict of interest

(a) A party or entity is prohibited from providing services to both the Department and the transit agency when a conflict of interest, as determined by the Department, exists.

(b) A transit agency may not be a contractor for the Department under the State safety over-sight program.

16:53E-1.4 Incorporation by reference

The Department incorporates herein by reference 49 CFR Part 674, State Safety Oversight.

SUBCHAPTER 2. STATE SAFETY OVERSIGHT PROGRAM STANDARD

16:53E-2.1 State Safety Oversight Program Standard

The Department, in its role as the oversight agency, develops safety oversight program rules that establish processes and procedures that govern the conduct of the oversight agency. The rules also provide guidance to the regulated transit agencies and other fixed guideway systems regarding the content of the plans and procedures they must have in place in order to be in compliance with the State program.

SUBCHAPTER 3. SAFETY PLAN

16:53E-3.1 Safety plan requirements

(a) A transit agency shall not operate a fixed guideway system unless the Department has provided written approval of, and the transit agency has implemented, its safety plan for that system.

(b) Every transit agency shall develop and implement a written safety plan that complies with the requirements of the New Jersey Department of Transportation Safety Oversight Program Standard (NJDOT SSOPS) for each fixed guideway system it operates. Copies of the NJDOT SSOPS may be obtained on the Department’s website at: <http://www.state.nj.us/transportation> or in person at:

New Jersey Department of Transportation
Office of Fixed Guideway Oversight
1035 Parkway Avenue
PO Box 600
Trenton, New Jersey 08625-0600
Phone: 609-530-2551
Fax: 609-530-6397
or by e-mail at: njofgssso@dot.state.nj.us.

TREASURY—GENERAL

(a)

DIVISION OF PENSIONS AND BENEFITS

Alternate Benefit Program

Proposed Amendments: N.J.A.C. 17:7-1.2, 2.1, 5.7, 9.2, 12.1, 14.1, and 16.1

Proposed New Rules: N.J.A.C. 17:7-12.5 through 12.19

Authorized By: Florence J Sheppard, Acting Director, Division of Pensions and Benefits.

Authority: N.J.S.A. 18A:66-192 and 52:18A-113.2.

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

Proposal Number: PRN 2018-014.

Submit comments by May 4, 2018, to:

Susanne Culliton
Administrative Practice Officer
Division of Pensions and Benefits
PO Box 295
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DPB.regulations@treas.nj.gov

The agency proposal follows:

Summary

The Division of Pensions and Benefits (Division) is responsible for periodically reviewing the current administrative rules within N.J.A.C. 17:7 to ascertain whether they are necessary, cost efficient, reflect current procedures of the Division, and maintain qualified plan status in compliance with Federal IRS regulations. If revisions are required, the Division will take steps, as necessary, to amend N.J.A.C. 17:7.

Accordingly, the Director of the Division proposes to amend the current rules within N.J.A.C. 17:7 in order to ensure that the Alternate Benefit Program (ABP) maintains qualified plan status in compliance with Federal IRS regulations. In particular, the regulations for one of the ABP’s five component plans, the 403(b) plan known as the Additional Contributions Tax Sheltered (ACTS) Program, require a number of amendments and new rules, particularly at N.J.A.C. 17:7-2 and 17:7-12, as part of the Division’s efforts to bring the ACTS Program into compliance with current Federal Internal Revenue Code, although several other modifications are also being proposed. The component plan of the ABP known as ACTS is a 403(b) defined contribution retirement plan for eligible employees of the public institutions of education in New Jersey. Under the ACTS Program, eligible members can direct voluntary contributions among six authorized pension providers. Each pension provider offers ACTS members a variety of investment choices and distribution methods.

An important component of the proposed amendments at N.J.A.C. 17:7-2 is a modification to the definition of “employer” as it relates to the ACTS Program. The proposed definition now delineates the criteria that employers must meet under Federal IRS regulations before their employees are permitted to enroll in the ACTS Program. Specifically, the definition of “employer” for ACTS now states that ACTS participation is limited to governmental instrumentalities that are tax-exempt organizations under IRC § 501(c)(3), or public schools that are State-sponsored educational organizations described in IRC § 170(b)(1)(A)(ii)—educational organizations that normally maintain a regular faculty and curriculum and normally have a regularly enrolled body of pupils or students in attendance at the place where educational activities are regularly carried out. Employees of employing locations that do not meet the limitations placed on ACTS participation under the above IRS regulations, such as the Department of Education and the Higher Education Student Assistance Authority, will be allowed to participate in the 457(b) program known as the New Jersey State Employees Deferred Compensation Plan (NJSEDCP) in place of the ACTS Program.

Furthermore, additional amendments are required at N.J.A.C. 17:7-1.2, 5.7, 9.2, 14.1, and 16.1. These proposed amendments represent modifications to current ABP rules that clarify and support the requirements for efficient administration, enrollment, contributions, distribution, termination, and transfers within N.J.S.A. 18A:66-168 through 192 and 52:18A-113.2.

Members, retirees, and survivors of members and retirees rely on the efficient operation of the ABP and its component plans. They depend on Plan administrators to administer their accounts and to provide the information they need regarding their accounts. Further, they rely on effective rules to be in place to guide the administration of their accounts.

Following is a discussion of the proposed amendments and new rules:

Subchapter 1. General Provisions

The Division proposes to amend N.J.A.C. 17:7-1.2(a)2 by removing the word “higher” from the description of the ACTS Program, since participation in ACTS is no longer limited to employees of institutions of higher education. In accordance with P.L. 2011, c. 78, employees of local boards of education may also participate in the ACTS Program.