

NOTE: This is a courtesy copy of this rule. The official version can be found in the *New Jersey Administrative Code*. Should there be any discrepancies between this text and the official version, the official version will govern.

TITLE 16. DEPARTMENT OF TRANSPORTATION
CHAPTER 1A. ADMINISTRATION, ORGANIZATION, RECORDS MANAGEMENT AND
INFORMATION REQUESTS

Expires on November 3, 2009

SUBCHAPTER 1. OPERATION AND PROCEDURES OF THE DEPARTMENT OF TRANSPORTATION

16:1A-1.1 Mission statement of the Department

The Department of Transportation's mission statement is: "Improving Lives by Improving Transportation"

16:1A-1.2 Organization of Department

(a) The Department of Transportation is organized as indicated in the Organizational Chart (see chapter Appendix, incorporated herein by reference) and the functions and responsibilities of its officers are as follows:

1. The Commissioner of Transportation is the Chief Executive Officer of the Department and oversees all functions of the Department of Transportation.

i. The Director of Design Services is designated the State Transportation Engineer.

2. The Deputy Commissioner reports to the Commissioner with principal responsibilities in the following areas:

i. Capital Program Management--the Assistant Commissioner and the Deputy Assistant Commissioner of Capital Program Management have principal responsibilities in the following areas:

- (1) Quality Management;
- (2) Project Management;
- (3) Design Services;
- (4) Construction Services and Materials;
- (5) State Transportation Engineer;
- (6) Right of Way; and
- (7) Environmental Resources.

ii. Operations--the Assistant Commissioner of Operations has principal responsibilities in the following areas:

- (1) Operations North;

- (2) Operations Central;
- (3) Operations South;
- (4) Traffic Engineering and Safety;
- (5) Operations Support; and
- (6) Emergency Management.

iii. Planning and Development--the Assistant Commissioner of Planning and Development has principal responsibilities in the following areas:

- (1) Capital Investment Planning and Development;
- (2) Local Aid and Economic Development;
- (3) Systems Planning and Research; and
- (4) Project Planning and Development.

iv. Chief Financial Officer--the Chief Financial Officer has principal responsibilities in the following areas:

- (1) Budget;
- (2) Information Technology;
- (3) Accounting and Auditing; and
- (4) Procurement.

v. Administration--the Assistant Commissioner for Administration has principal responsibilities in the following areas:

- (1) Employee Support;
- (2) Human Resources;
- (3) Support Services;
- (4) Ethics, Appeals and Disability Accommodations; and
- (5) Employee Advocate.

vi. Interagency Coordination--the Assistant Commissioner for Interagency Coordination has principal responsibilities in the following area:

- (1) Authorities Coordination.

vii. Legal Services;

viii. Civil Rights and Affirmative Action;

ix. Intermodal Services; and

x. Office of Transportation Security--the Assistant Commissioner has principal responsibility for transportation security.

3. The Chief of Staff reports to the Commissioner with principal responsibilities in the following areas:

i. Government and Community Relations--the Assistant Commissioner of Government and Community Relations has principal responsibilities in the following areas:

(1) Legislative and Constituent Services;

(2) Community Relations; and

(3) Federal Liaison.

ii. Inspector General;

iii. Communications; and

iv. Policy, Legislation and Regulatory Actions.

4. The Executive Director of Statewide Traffic Operations reports to the Commissioner with principal responsibility in the following area:

i. Traffic Operations.

5. The Director of Smart Growth reports to the Commissioner with principal responsibilities to provide for the expedition of certain permits in smart growth areas and for the creation of expedited permit mechanisms, such as permits-by-rule.

16:1A-1.3 Procedure for filing a rulemaking petition

(a) Any interested person may petition the Department of Transportation for the promulgation, amendment or repeal of any rule of the Department of Transportation. Such petition shall be in writing, signed by the petitioner and must state clearly and concisely:

1. The full name and address of the petitioner;

2. The substance or nature of the rulemaking which is requested;

3. The reasons for the request;

4. The petitioner's interest in the request, including any economic interests;

5. The statutory authority under which the Department of Transportation may take the requested action; and

6. Existing Federal and State statutes and rules which the petitioner believes may be pertinent to the request.

(b) The petition shall be addressed to the Commissioner, Department of Transportation, ATTN: Administrative Practice Officer, 1035 Parkway Avenue, PO Box 600, Trenton, New Jersey 08625-0600.

(c) Upon acceptance of a petition which satisfies the requirements of (a) above, the Department shall file a notice of receipt of the petition within 15 days with the Office of Administrative Law for publication in the New Jersey Register.

(d) Within 60 days following receipt of a petition, the Department shall either:

1. Deny the petition, in which case the Department shall provide a written statement of its reasons to the petitioner, and include such reasons in its notice of action;

2. Grant the petition and initiate a rulemaking proceeding within 90 days of the granting of the petition; or

3. Refer the matter for further deliberations, the nature of which shall be specified to the petitioner and in the notice of action and which shall conclude within 90 days of such referral. Upon conclusion of such further deliberations, the Department shall either deny the petition or grant the petition and initiate a rulemaking proceeding within 90 days. The Department shall mail the results of these further deliberations to the petitioner and submit the results to the Office of Administrative Law for publication in the New Jersey Register.

(e) Within 60 days of receiving the petition, the Department shall mail to the petitioner, and file with the Office of Administrative Law for publication in the New Jersey Register, a notice of action on the petition, which shall include:

1. The name of the petitioner;

2. The New Jersey Register citation for the notice of petition;

3. The signature of the Commissioner, or his or her designee, signifying that the petition was duly considered pursuant to law;

4. The nature or substance of the Department's action upon the petition; and

5. A brief statement of reasons for the Department's action.

(f) The procedures outlined in this section to petition the Department for the promulgation, amendment or repeal of a rule shall apply to all Department rules, except in those cases where a special or alternative petition procedure is specifically designated.

16:1A-1.4 Extension of the public comment period

(a) The Department, in accordance with the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Office of Administrative Law Rules for Agency Rulemaking, N.J.A.C. 1:30, may extend the time for submission of public comments on a proposed rulemaking at its discretion without the need for a specific request or the demonstration of sufficient public interest.

(b) The Department, in accordance with the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Office of Administrative Law Rules for Agency Rulemaking, N.J.A.C. 1:30, shall extend the time for submission of public comments for an additional 30-day period, if, within 30 days of the publication of a notice of proposal, sufficient public interest is demonstrated in an extension of time to submit comments.

(c) Sufficient public interest is demonstrated in an extension of the comment period when 10 or more individuals have expressed the need for the extension of the comment period.

16:1A-1.5 Conducting a public hearing

(a) The Department, in accordance with the New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Office of Administrative Law Rules for Agency Rulemaking, N.J.A.C. 1:30, may conduct a public hearing on a proposed rulemaking at its discretion without the need for a specific request or the demonstration of sufficient public interest.

(b) The Department, in accordance with New Jersey Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Office of Administrative Law Rules for Agency Rulemaking, N.J.A.C. 1:30, shall conduct a public hearing on a proposed rulemaking at the request of a Legislative Committee, a State agency, or a county, local, or municipal governmental entity, if the request is made to the Department within 30 days following publication of the proposed rulemaking, or if sufficient public interest is demonstrated.

(c) Sufficient public interest is demonstrated with regard to the conducting of a public hearing when 50 or more individuals have expressed either the need for a public hearing on the rule proposal or disagreement with one or more substantive provisions of the rule proposal.

(d) The Department shall not consider, in the calculation of the number of comments received under (c) above, those comments that relate to specific recommended changes in the rule that the Department has agreed to make or does not have the legal authority to make.

16:1A-1.6 Notice of rulemaking proposals

(a) When the Department makes a rulemaking proposal in the New Jersey Register, the Department shall distribute a notice of the rulemaking proposal to the news media maintaining a press office in the State House Complex.

(b) When the Department makes a rulemaking proposal in the New Jersey Register, the Department shall make available on its internet website (www.state.nj.us/transportation) a notice of the rulemaking proposal.

(c) (Reserved)

16:1A-1.7 Public information requests

Members of the public may obtain general information from the Department of Transportation by writing to or telephoning the Department of Transportation, 1035 Parkway Avenue, PO Box 600, Trenton, New Jersey 08625-0600, (609) 530-2000.

16:1A-1.8 How to obtain NJDOT public records

(a) A private citizen, in person or in writing, may obtain a NJDOT public record directly from a manager or higher level upon conferring with the Custodian of Records, Director, Division of Support Services. A private citizen who does not know where a particular NJDOT public record may be obtained should contact, in person or in writing, the:

Official Custodian of Records
Division of Support Services
New Jersey Department of Transportation
1035 Parkway Avenue
PO Box 600
Trenton, New Jersey 08625-0600
ATTN: Manager, Bureau of Records and Services

(b) All records which are required by law to be made, maintained or kept on file shall be deemed to be public records, except as otherwise provided by statute, resolution, executive order, rule of court, Federal law, regulation or order, or any regulation under the authority of any statute or executive order of the Governor.

(c) All NJDOT public records shall be readily accessible for examination by private citizens during the regular business hours of the office having custody of the NJDOT public record. Every citizen shall also have the right to copy such records by hand or to purchase copies thereof. The right to copy or duplicate a record or document shall not apply to records, documents, or software that may be subject to copyrights, licensing, or other such restrictions.

(d) The records listed below shall not be deemed NJDOT public records but may be made available for inspection, examination, and copying only by an individual who demonstrates to the satisfaction of the Custodian of Records, Director, Division of Support Services, in conjunction with the manager or higher level having custody of such records, that the citizen has a legitimate beneficial interest in such record for the protection of his or her property rights or the protection of any interest the citizen may have in any matter affecting the citizen to which said record is relevant. Availability may be limited to the part of the record that is particularly relevant to the citizen. Such records include all those that are made, maintained or kept on file by the NJDOT relating to:

1. Future construction projects in terms of specific amounts or locations;
2. Qualifications and classifications of contractors, consultants, and appraisers;
3. Research and tests required in the development of highway materials, design, and construction;
4. Consultants' draft and final reports, NJDOT draft and final preliminary planning and engineering studies, and assessment prior to disclosure at public hearings;
5. Preliminary aircraft accident investigative reports;
6. Reports of aeronautical surveillance or investigation;
7. Personnel and pension records except that the following shall be public:

i. An individual's name, title, position, salary, payroll record, length of service in the instrumentality of government and in the government, date of separation from government service and the reason therefor; and the amount and type of pension he or she is receiving; and

ii. Data contained in information which disclose conformity with specific experimental, educational or medical qualifications required for government employment or for receipt of a public pension, but in no event shall detailed medical or psychological information be released.

8. Police and driver reports of accidents on file with the Bureau of Accident Records;

9. All records which are part of any workpapers, memoranda, or reports which are made, maintained, or kept by the Office of the Inspector General in the Department of Transportation;

10. Bridge Survey Reports;

11. Research documents pertaining to ongoing studies for the operational areas of the NJDOT prior to disclosure to the public;

12. Audit reports performed by NJDOT personnel or outside agency personnel for the NJDOT;

13. Inspection records of signalized equipment;

14. New Jersey Highway Defense Requirements Bridge Records;

15. All records that are part of any workpapers, memoranda, or reports that are made, maintained, or kept as part of any investigation by the Department into a matter involving any potential violation of civil or criminal law; and

16. Any record, workpapers, memoranda, or report that is determined to be a work in progress.

(e) The right of examination herein provided for may be denied where the records which are sought to be examined pertain to an investigation in progress by any body, agency, commission, board, authority or official, if the inspection, copying or publication of such records shall not be in the best interest of the public.

(f) If a citizen wishes to copy more than 100 pages of NJDOT public records, the bureau manager or higher level having custody of the records may permit the citizen to use the citizen's own photographic process providing:

1. The photographic process is approved by the custodian;

2. There is no risk of damage or mutilation of the records;

3. The copying of such records by the citizen would not be incompatible with the economic and efficient operation of the office and the transaction of public business therein;

4. The citizen is willing to pay the fee which shall be established by the custodian after consideration of the equipment and time involved (such fee shall not be less than \$ 10.00 nor more than \$ 50.00 per day).

(g) N.J.S.A. 47:1A-2 of "The Present New Jersey Right to Know Law" requires that if a price for a public record has not been established by a New Jersey statute, New Jersey legislative resolution, New Jersey Governor's executive order, rule of court, Federal law, regulation or order, or any New Jersey regulation, the following fees are in effect:

1. First page to 10th page, \$ 0.75 per page;
2. Eleventh page to 20th page, \$ 0.50 per page;
3. All pages over 20, \$ 0.25 per page.

(h) Government agencies are exempt from cost for copies of documents.

(i) When it is determined by the official custodian of the nonpublic records listed in (d) above, or the Commissioner of Transportation in the case of all other nonpublic records, to make available records that involve a significant amount of research and investigation, additional charges may be assessed on an hourly basis for personnel costs.

(j) The records listed below shall not be deemed NJDOT public records and are subject to the provisions of N.J.S.A. 20:3-12(c) and 20:3-12(d) and rules of the New Jersey Supreme Court R:4-73-11.

1. Estimates, appraisals and costs of acquiring right-of-way prior to the completion of a project.

2. For the preservation of the "Attorney-Client Privilege," all records which are part of any case file maintained by a Deputy Attorney General acting for the NJDOT.

(k) The records listed below shall not be deemed NJDOT public records and shall not be made available for inspection, examination and copying:

1. Appraisal review analyses.

16:1A-1.9 Release traffic signal information

(a) All requests for information concerning the operation or maintenance of traffic signals shall be referred to the Bureau of Traffic Engineering and Investigations, New Jersey Department of Transportation, PO Box 613, Trenton, NJ 08625-0613 for processing.

(b) Requests for such information must be submitted in writing, accompanied by a check or money order for \$ 100.00 made payable to the New Jersey Department of Transportation.

(c) The release of traffic signal information shall be in accordance with N.J.A.C. 16:1A-1.8, How to obtain NJDOT public records.

(d) Traffic signal information may only be furnished if the requirements of (a) through (c) above are observed, unless related to an access application/permit. Information desired by

governmental agencies for official use will be supplied free of charge providing the request is submitted on official letterhead stationery and signed by the agency head.

APPENDIX

NEW JERSEY DEPARTMENT OF TRANSPORTATION ORGANIZATIONAL CHART

OFFICE OF ADMINISTRATIVE LAW NOTE: Appendix could not be reproduced in the New Jersey Administrative Code but may be reviewed on the Department of Transportation's website at [http:// www.state.nj.us/transportation/publicat/check points/org300c.pdf](http://www.state.nj.us/transportation/publicat/check%20points/org300c.pdf) or by contacting:

Office of Administrative Law
9 Quakerbridge Plaza
PO Box 049
Trenton, NJ 08625-0049