

OTHER AGENCIES

NEW JERSEY TURNPIKE AUTHORITY

Towing Rates on the Turnpike and the Parkway; Road Services Rates on the Roadway

Reproposed Amendments: N.J.A.C. 19:9-3.1 and 3.2

Authorized By: New Jersey Turnpike Authority, Joseph Mrozek, Executive Director.

Authority: N.J.S.A. 27:23-5.s.

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

Proposal Number: PRN 2016-174.

Submit written comments by December 16, 2016, to:

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The agency reproposal follows:

Summary

The New Jersey Turnpike Authority (the Authority) reproposes to amend its rules at N.J.A.C. 19:9-3.1 and 3.2 to increase the allowable fees that may be charged by service providers for routine towing services and road service on the New Jersey Turnpike and Garden State Parkway. Pursuant to the Authority's enabling legislation, N.J.S.A. 27:23-5.s, the Authority has the power to adopt regulations to "fix maximum towing and storage fees" for towing and storage

services on a highway project. The Authority's current maximum routine towing and road service fees have remained unchanged since 2004, despite the significant increase in fuel and other costs since that time.

The proposed amendments were originally proposed in the New Jersey Register on November 16, 2015, at 47 N.J.R. 2750(a). During the public comment period on the original notice of proposal, the Authority received nine comments on the proposed amendments, from eight of the Authority's current towing service providers and from the Garden State Towing Association. All of the commenters objected to the Authority's proposed amendments to regulate "alternate destination tows"; that is, towing jobs that begin on the Authority's Roadways but end, by agreement between the tower and patron, at a location other than an Authority-approved garage facility. Further, the commenters expressed concern that the new proposed maximum fees remained too low, and several commenters also requested that the Authority raise the maximum fees for extra heavy duty towing services, which fees were not the subject of the original notice of proposal.

In response to the comments, the Authority is reproposing amendments to its rules at N.J.A.C. 19:9-3.1 and 3.2. The Authority is clarifying its proposed amendment regarding maximum fees for "alternate destination tows" to make clear that such fees do not apply when the tows continue off the Roadway and terminate outside of the State of New Jersey. The Authority has further made clear in this rulemaking that such fees for "alternate destination tows" do not apply to Class 3 vehicles; that is, tractor trailers, buses (15,000 pounds or more registered gross vehicle weight), or any vehicle requiring the use of a Landoll tractor trailer.

However, upon review, the Authority does not believe it is appropriate to raise the maximum fees for routine towing and road services beyond what was originally proposed, nor

does the Authority believe that is appropriate at this time to raise the maximum fees for extra heavy duty towing and recovery services set forth at N.J.A.C. 19:9-3.1(a)4. The increased routine towing and road service rates as proposed by the Authority will bring the fees paid by Authority patrons for such services consistent with the fees charged by towers under contract to other transportation agencies in the region.

The Authority has provided a 60-day comment period for the notice of reproposal; therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, the notice is excepted from the provisions of N.J.A.C. 1:30-3.1 and 3.2, governing rulemaking calendars.

A summary of the proposed amendments follows:

The amendments proposed to N.J.A.C. 19:9-3.1(a)1 provide for an increase in the maximum service charge for routine towing services for Class 1 vehicles (under 6,999 pounds registered GVW) from \$60.00 to \$72.00, and increase the maximum mileage charge from \$2.00 to \$3.50 per mile, up to a maximum of \$107.00. In addition, the amendments proposed to N.J.A.C. 19:9-3.1(a)1 propose a new sub-subparagraph (a)1i(2), to fix maximum towing fees for routine towing services of Class 1 vehicles that begin on the New Jersey Turnpike or Garden State Parkway and continue off that roadway to locations other than an Authority-authorized garage facility. However, this new sub-subparagraph shall not apply to towing services that terminate outside of the State of New Jersey.

The amendments proposed to N.J.A.C. 19:9-3.1(a)2 provide for an increase in the maximum service charge and mileage charge for routine towing services for Class 2 vehicles (straight truck (up to 14,999 pounds GVW), car with trailer, or trailer without car) from \$100.00 to \$132.00, and mileage charge from \$3.00 to \$4.00 per mile, up to a maximum of \$172.00. In addition, the amendments proposed to N.J.A.C. 19:9-3.1(a)1 propose new sub-sub-subparagraph

(a)2i(1)(B) to fix maximum towing fees for routine towing services of Class 2 vehicles that begin on the New Jersey Turnpike or Garden State Parkway and continue off that roadway to locations other than an Authority-authorized garage facility. However, this new sub-sub-subparagraph shall not apply to towing services that terminate outside of the State of New Jersey.

In addition, the amendments proposed to N.J.A.C. 19:9-3.1(a)2 provide for a twenty percent increase in the maximum fees for additional charges related to towing Class 2 and 3 vehicles, and provide for a clarification of the paragraph, without altering its meaning, to make clear the difference in maximum rates as they apply to Class 2 and Class 3 vehicles.

The amendments to N.J.A.C. 19:9-3.1(a)3 provide for an approximately 30 percent increase in the maximum charges for winching and wrecking of all classes of vehicles.

The amendments repropose recodifying N.J.A.C. 19:9-3.1(a)4 as (a)5, to make clear that the rates for specialized equipment in recodified paragraph (a)5 apply only to routine towing services, and not the extra heavy duty towing services set forth in recodified paragraph (a)5.

The amendments further repropose amending N.J.A.C. 19:9-3.2(a) and (b) to increase the maximum road service charge on the New Jersey Turnpike and Garden State Parkway to \$60.00, from the current maximum charge of \$30.00.

Social Impact

These reproposed amendments will enhance the competitive process for procuring routine towing services on the New Jersey Turnpike and Garden State Parkway by increasing the pool of qualified towers during future towing services procurements. By doing so, the reproposed amendments will have a positive effect on the services provided to Authority patrons, and will further the Authority's mandate to ensure the safe and efficient movement of vehicular traffic through the State.

Economic Impact

The Authority does not anticipate that the repropoed amendments will have a significant economic impact on the public or other State agencies. The Authority believes that any economic impact that may be borne by the Authority's patrons who utilize routine towing services on the New Jersey Turnpike or Garden State Parkway due to the increased fees will be offset by the benefits afforded patrons by the increase in the pool of qualified towers. Further, the repropoed amendments are intended to establish maximum rates contractors may charge patrons for those routine towing services.

Federal Standards Statement

The repropoed amendments do not contain any standards or requirements that exceed the standards or requirements imposed by Federal law because no Federal standards or requirements apply to the repropoed amendments.

Jobs Impact

The Authority does not believe that the repropoed amendments will result in the creation or the loss of any jobs in the State.

Agriculture Industry Impact

The Authority does not believe that the repropoed amendments will have any impact on the agriculture industry in this State.

Regulatory Flexibility Analysis

The repropoed amendments impose minimal compliance requirements on small businesses, as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The Authority procures and limits towing access on its Roadways to authorized towers to ensure that Authority patrons are served by qualified towers who can remove disabled vehicles safely and quickly. The proposed amendments set the maximum fees that may be charged by such authorized towers to

Authority patrons whose vehicles become disabled. Thus, the fees will be paid by those patrons to the authorized towers. While such patrons may, in some cases, own small businesses, the fees are applied uniformly to all Authority patrons, to ensure that only authorized towers meeting the Authority's safety, equipment, and other requirements operate on its Roadways.

Housing Affordability Impact Analysis

The repropose amendments will have no impact on the affordability of housing in New Jersey and there is no likelihood that the rules would evoke a change in the average costs associated with housing because the repropose amendments concern routine towing services on the New Jersey Turnpike and Garden State Parkway.

Smart Growth Development Impact Analysis

The repropose amendments will have an insignificant impact on smart growth, if any, and there is no likelihood 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 because the repropose amendments concern routine towing services on the New Jersey Turnpike and Garden State Parkway.

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

SUBCHAPTER 3. FEES

19:9-3.1 Towing rates on the Turnpike and the Parkway

(a) Towing rates charged by Authority-authorized companies on the Roadway, pursuant to contracts entered into after [June 15, 2004] (**the effective date of this amendment**), shall not

exceed the following rates or such rates as may be approved and amended by the members of the Authority from time to time in accordance with P.L. 2003, [c.79] **c. 79** (N.J.S.A.

27:23-[42b(7)]**42.b(7)**) or with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the rules on agency rulemaking, N.J.A.C. 1:30:

1. Class 1 Vehicles (under 6,999 pounds registered gross vehicle weight (GVW) for the purpose of towing rates only):

i. Service charge of [~~\$60.00~~] **\$72.00**; plus

[ii.] **(1)** [~~\$2.00~~] **\$3.50** per mile on the Roadway, up to a maximum **fee to tow the vehicle to the Authority-authorized garage facility**, including the service charge, of [~~\$80.00.~~] **\$107.00**; and

(2) For tows that continue off the Roadway to locations other than an Authority-authorized garage facility, \$3.50 per mile on the Roadway, plus \$10.00 per mile for the first mile off the Roadway, and \$7.50 per mile for each additional mile off the Roadway, except that this sub-subparagraph shall not apply to tows that terminate outside the State of New Jersey.

2. Other classes of vehicles (7,000 pounds and over registered GVW):

i. Class 2 Vehicles (for the purpose of towing rates only, straight truck (up to 14,999 pounds gross vehicle weight), car with trailer, or trailer without car):

[i.] **(1)** Service charge of [~~\$100.00~~ for straight truck (up to 14,999 pounds gross vehicle weight), car with trailer, or trailer without car and ~~\$250.00~~ for tractor trailer or bus (15,000 pounds or more registered gross vehicle weight)] **\$132.00**; plus

[ii.] (A) [~~\$3.00~~] **\$4.00** per mile on the Roadway, up to a maximum, including the service charge, of [~~\$130.00~~] for straight truck, car with trailer, or trailer without car and \$5.00 per mile for tractor trailer or bus, up to a maximum, including the service charge, of \$300.00; plus] **\$172.00; or**

(B) For tows that continue off the Roadway to locations other than an Authority-authorized garage facility, \$4.00 per mile on the Roadway, \$10.00 per mile for the first mile off the Roadway, and \$8.00 per mile for each additional mile, except that this sub-sub-subparagraph shall not apply to tows that terminate outside the State of New Jersey.

ii. **Class 3 Vehicles (for the purpose of towing rates only, tractor trailer, bus (15,000 pounds or more registered gross vehicle weight), or any vehicle requiring the use of a Landoll tractor trailer:**

(1) Service charge of \$250.00; plus \$5.00 per mile on the Roadway, up to a maximum, including the service charge, of \$300.00.

iii. **Where applicable, the following additional fees may be charged for services to Class 2 or 3 vehicles:**

[iii.] **(1) [An additional charge of \$25.00] \$30.00** for connecting air lines and [~~\$25.00~~] **\$30.00** for connecting lights;

[iv.] **(2) [An additional charge of \$45.00] \$54.00** for disconnecting drive shaft on all trucks;

[v.] **(3) [An additional charge of \$40.00] \$48.00** per axle for removing an axle; and

[vi.] **(4) [Additional charge of \$45.00] \$54.00** for removing an air scoop.

3. Winching and wrecking (all classes of vehicles):
 - i. [~~\$60.00~~] **\$80.00** per hour for a light wrecker; and
 - ii. [~~\$100.00~~] **\$130.00** per hour for a heavy wrecker.

4. **Specialized equipment for routine towing services:**

i. **\$250.00 per hour for specialized equipment, including, but not limited to, Oshkosh box trailer with tractor; and**

ii. **\$450.00 per hour for Rotator 60-ton capacity and up, and for 50-ton construction crane.**

[4.] **5.** (No change in text.)

[5. Specialized equipment:

i. \$250.00 per hour for specialized equipment, including, but not limited to, Landoll hydraulic trailer with tractor or Oshkosh box trailer with tractor.

ii. \$450.00 per hour for Rotator 60-ton capacity and up, and for 50 ton construction crane.]

(b) (No change.)

19:9-3.2 Road services rates on the Roadway

(a) Road service rates on the Turnpike for Class 1 vehicles charged by Authority-authorized service companies pursuant to contracts entered into after [June 15, 2004] (**the effective date of this amendment**), shall conform with the following rates or such rates as may be approved and amended by the members of the Authority from time to time in accordance with P.L. 2003, [c.79] **c. 79** (N.J.S.A. 27:23-[42b(7)]**42.b(7)**) or with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the rules on agency rulemaking, N.J.A.C. 1:30:

1. Road service charge: [~~\$30.00~~] **\$60.00**;

2. - 7. (No change.)

(b) Road service rates on the Parkway for Class 1 vehicles charged by Authority-authorized towing and emergency service providers pursuant to contracts entered into after [June 15, 2004] **(the effective date of this amendment)**, shall conform with the following rates or such rates as may be approved and amended by the members of the Authority from time to time in accordance with P.L. 2003, [c.79] **c. 79** (N.J.S.A. 27:23-[42b(7)]**42.b(7)**) or with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the rules on agency rulemaking, N.J.A.C. 1:30:

1. Road service charge: [\$30.00] **\$60.00**;

2. - 7. (No change.)