NEW JERSEY TURNPIKE AUTHORITY

Petitions for Rules, Opportunity to Be Heard Upon a Showing of Sufficient Public Interest in a Proposed Rulemaking.
Proposed Amendment: N.J.A.C. 19:9-6.2 and 6.3
Proposed New Rules: N.J.A.C. 19:9-6.4, 6.5 and 6.6

Authorized By:	New Jersey Turnpike Authority, Michael Lapolla, Executive Director
Authority:	N.J.S.A. 27:23-1 et seq. and 52:14B-1 et seq. as amended by P.L. 2001, c.5.
Calendar Reference:	See Summary below for explanation of exception to calendar requirement.
Proposal Number:	PRN 2002-196.

Submit written comments by September 13, 2002 to:
Michael Lapolla, Executive Director
New Jersey Turnpike Authority
P.O. Box 1121
New Brunswick, New Jersey 08903

Comments may also be sent via facsimile to the following number: (732) 937-5926

Comments may also be sent via electronic mail to the following address: info@turnpike.state.NJ.us

The agency proposal follows:

SUMMARY

The New Jersey Turnpike Authority ("Authority") proposes to amend N.J.A.C. 19:9-6.2 and 6.3 and proposes new rules at N.J.A.C. 19:9-6.4, 6.5 and 6.6 in response to rulemaking mandates emanating from recent amendments to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Rules for Agency Rulemaking, N.J.A.C. 1:30.

N.J.A.C. 19:9-6.2 established procedures by which persons may file a petition for rulemaking with the Authority. The Authority proposes to amend N.J.A.C. 19:9-6.2 to give a petitioner the option of providing the text of the proposed new rule, amended rule or required rule.

N.J.A.C. 19:9-6.3 establishes procedures by which the Authority will submit a petition to the Office of Administrative Law for publication in the New Jersey Register. The Authority proposes time limits within which petitions will be granted or denied and submitted to the Office of Administrative Law for rulemaking.

Proposed new rule N.J.A.C. 19:9-6.4 sets forth a petitioner's option if the Authority fails to act on a petition for rulemaking. The proposed rule allows the petitioners to submit a request for a public hearing to the Office of Administrative Law.

Proposed new rule N.J.A.C. 19:9-6.5 provides circumstances under which the Authority will extend the public comment period on a proposed rulemaking. In accordance with N.J.A.C. 1:30-5.4(a)1, the proposed new rule provides that the Authority shall extend the public comment period upon the establishment of "sufficient public interest". The Authority proposes to define "sufficient public interest" as established upon the Authority's receipt of 10 or more requests for the extension of the comment period.

Proposed new rule N.J.A.C. 19:9-6.6 establishes circumstances under which the Authority will convene a public hearing on a proposed rulemaking. In accordance with N.J.A.C. 1:30-5.5(a)1, the proposed new rule provides that the Authority shall convene a public hearing upon the establishment of "sufficient public interest". The Authority proposes to define "sufficient public interest" as established upon the Authority's receipt of 50 individual expressions of the need for a public hearing.

SOCIAL IMPACT

The proposed new rules and amendments are designed to have a positive social impact on the citizens in this State as the new rules and amendments are designed to simplify and clarify the administrative rulemaking process. The amendments and new rules are also designed to encourage more public participation in the rulemaking process. The citizens of this State will benefit from the more accessible rulemaking process.

These rules also implement the basic statutory purposes of the State's Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and demonstrate the Authority's continued commitment to encourage the public's full participation in its rulemaking process.

ECONOMIC IMPACT

The proposed amendments and new rules do not impose any direct or indirect costs for the Authority or the State. The amendments and new rules are expected to contribute to the long-term economic growth of the State because greater public participation in the rulemaking process will result in clearer, practical regulations.

The Authority has incurred, and will continue to incur, administrative costs in the rulemaking process.

FEDERAL STANDARDS STATEMENT

The proposed amendments and new rules are not subject to any Federal requirements or standards. Therefore, a Federal standards analysis is not required.

JOBS IMPACT

The Authority does not anticipate any impact from the proposed amendments or new rules that would affect jobs in the State of New Jersey, including the generation or loss of jobs.

AGRICULTURE INDUSTRY IMPACT

The Authority does not anticipate any impact from the proposed amendments or new rules that would affect the agriculture industry in this State.

REGULATORY FLEXIBILITY STATEMENT

A proposed amendments and new rules will not impose reporting, recordkeeping or other compliance requirements on small businesses, as that term is defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The amendments and new rules concern Authority actions in the course of the rulemaking and petition for rulemaking processes.

SMART GROWTH IMPACT

The proposed amendments and new rules will have no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

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

SUBCHAPTER 6. PETITIONS FOR RULES; OPPORTUNITY TO BE HEARD UPON A SHOWING OF SUFFICIENT PUBLIC INTEREST IN A PROPOSED RULEMAKING.

19:9-6.2 Procedure for petitioner

(a) (No change.)

(b) A petitioner has the option of providing the text of the proposed new rule, amended rule or repealed rule with the information in (a) above, although this is not required.

Recodify existing (b)-(c) as (**(c)-(d)** (No change in text.)

19:9-6.3 Procedure of the Authority

(a) Upon receipt of a petition in compliance with this subchapter, the Authority will, **within 15 days of receipt**, file a notice of petition with the Office of Administrative Law for publication in the New Jersey Register. The notice will include:

1.-4. (No change.)

(b) Within [30] **60** days of receiving the petition, the Authority will 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 will include:

1.-5. (No change.)

(c) Authority action on a petition may include:

1. Denying the petition. **If the petition is denied, the petitioner will be provided with a written statement of the Authority's reasons for the denial;**

2. [Filing a notice of proposed rule or a notice of pre-proposal for a rule with the Office of Administrative Law] **Granting the petition. If the petition is granted, the Authority will initiate a rulemaking proceeding no later than 90 days after the petition is granted;** or

3. Referring the matter for further deliberations **by and among appropriate Authority staff**[, the nature of which will be specified and which will conclude upon a specified date. The results of these further deliberations will be mailed to the petitioner and submitted to the Office of Administrative Law for publication in the New Jersey Register]. **If the matter is referred for further deliberations, the nature of the deliberations will be given in writing to the petitioner and the deliberations must conclude within 90 days after the matter is referred.**

i. Upon the conclusion of further deliberations, the Authority shall either deny or grant the petition. If the petition is granted, the Authority shall initiate a rulemaking proceeding with 90 days. The Authority will mail the results of these deliberations to the petitioner and submit the results to the Office of Administrative Law for publication in the New Jersey Register.

19:9-6.4 Authority's failure to act on a petition for rulemaking

(a) If the Authority fails to act in accordance with the time frames set forth in N.J.A.C. 19:9-6.3, the petitioner may request, in writing, a public hearing on the petition by submitting a request to the Director of the Office of Administrative Law in accordance with N.J.A.C. 1:30-4.3.

(b) If a petitioner requests a public hearing from the Director of the Office of Administrative Law due to the Authority's failure to adhere to the time frames listed in N.J.A.C. 19:9-6.3, and if the Authority receives notice from the Director of the Office of Administrative Law of his or her intent to hold a public hearing on the petition, the Authority may, within 15 days of receipt of said notice, provide notice of a public hearing.

19:9-6.5 Extension of the public comment period

(a) The Authority 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 Authority 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 or entities have expressed the need for the extension of the comment period.

19:9-6.6 Conducting a public hearing

(a) The Authority 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 Authority shall conduct a hearing 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 Authority 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 or entities 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 Authority 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 Authority has agreed to make or does not have the legal authority to make.