

reach an informed decision on the appeal. The hearing officer may consider new evidence provided by the taxpayer or any relevant information that would demonstrate that the applicant meets all of the application criteria.

2. Following completion of the record review and/or in-person hearing, as applicable, the hearing officer shall issue a written report to the Director containing the hearing officer's finding(s) and recommendation(s) on the merits of the appeal. The hearing officer's report shall be advisory in nature. The applicant shall receive a copy of the written report of the hearing officer and shall have the opportunity to file written comments and exceptions to the hearing officer's report within five business days from receipt of such report.

3. The Director shall consider the hearing officer's report and any written comments and exceptions timely submitted by the applicant. Based on that review, the Director shall issue a final decision on the appeal.

4. Final decisions rendered by the Director shall be appealable to the Superior Court, Appellate Division, in accordance with the Rules Governing the Courts of the State of New Jersey.

18:34-1.10 Severability

If any section, subsection, provision, clause, or portion of this chapter is adjudged to be unconstitutional, ultra vires, or invalid by a court of competent jurisdiction, the remaining portions of this chapter shall not be affected thereby.

OTHER AGENCIES

(a)

NEW JERSEY TURNPIKE AUTHORITY

New Jersey Turnpike Authority Towing Rates and Road Services Rates

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

Authorized By: New Jersey Turnpike Authority, Diane Gutierrez-Scaccetti, Chair.

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

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

Proposal Number: PRN 2022-030.

Submit written comments by May 6, 2022, to:

Ann Christine Monica, Acting Director of Law
New Jersey Turnpike Authority
PO Box 5042
Woodbridge, NJ 07095-5042
Email: rules@njta.com

The agency proposal follows:

Summary

The New Jersey Turnpike Authority (Authority) proposes to amend its rules at N.J.A.C. 19:9-3.1 and 3.2 to increase the fees that may be charged by service providers for towing services and road services on the New Jersey Turnpike and Garden State Parkway (Roadways). Pursuant to the Authority's enabling legislation, N.J.S.A. 27:23-5(s), the Authority has the power to adopt rules to "fix maximum towing and storage fees" for towing and storage services on the Roadways. The Authority's current maximum routine towing and road service fees were last adjusted five years ago by 20 percent, after remaining unchanged for almost 13 years.

Most recently, significant increases in fuel, insurance, and other operating costs, coupled with the challenges presented by COVID-19, impact the service providers' ability to meet operating costs and provide modest increases in salary and benefits to retain qualified employees. While these combined factors present operating hardships for the service providers generally, the ability of some smaller service providers to remain in business is likely threatened. In turn, the Authority's ability to ensure safe, efficient, and reliable towing and road services on the

Roadways is jeopardized if a sufficient pool of qualified service providers is not available to provide those critical services.

After surveying other regional toll roads, it is apparent that the Authority's towing and road services fees are significantly lower. Accordingly, the Authority proposes to increase routine towing and road service fees on the Roadways to bring them more in line with other regional toll roads, and to ensure that a qualified pool of service providers remains available to perform these critical services on the Authority's Roadways.

A summary of the proposed amendments follows:

The amendments proposed at N.J.A.C. 19:9-3.1(a)1 provide for an increase in the maximum service charge for towing services for Class 1 vehicles (under 7,000 pounds Gross Vehicle Weight Rating (G.V.W.R.), generally, "Passenger Vehicles") from \$72.00 to \$108.00, and an increase in the per mile charge from \$3.50 to \$4.00, resulting in an increase in the total maximum fee for Class 1 vehicles, including the service charge, from \$107.00 to \$148.00. Additionally, the amendments propose to delete N.J.A.C. 19:9-3.1(a)1i(2) governing fees for tows of Class 1 vehicles to other than the service provider's Authority-authorized garage facility at a patron's request (Alternate Destination Tow). Rather, the Authority intends to include provisions in contracts awarded pursuant to N.J.A.C. 19:9-2.13 that ensure the fees for such Alternate Destination Tows are reasonable and fair to Authority patrons who request an Alternate Destination Tow.

The amendments proposed at N.J.A.C. 19:9-3.1(a)2 provide for an increase in the maximum service charge for towing services for Class 2 vehicles (7,000 pounds and over G.V.W.R.; for example, straight truck, or passenger vehicle with trailer) from \$132.00 to \$198.00, and an increase in the per mile charge from \$4.00 to \$4.50, resulting in an increase in the total maximum fee for Class 2 vehicles, including the service charge, from \$172.00 to \$243.00. The amendments propose to delete N.J.A.C. 19:9-3.1(a)2i(1)(B) governing Alternate Destination Tows.

The amendments proposed at N.J.A.C. 19:9-3.1(a)2ii provide for an increase in the maximum service charge for towing services for Class 3 vehicles (generally, over 15,000 pounds G.V.W.R.) from \$250.00 to \$375.00, and an increase in the per mile charge from \$5.00 to \$5.75, resulting in an increase in the total maximum fee for Class 3 vehicles, including the service charge, from \$300.00 to \$432.50.

The amendments also propose a 25 percent increase to additional fees for services to Class 2 or Class 3 vehicles at N.J.A.C. 19:9-3.1(a)2iii. Further, the amendments propose a 75 percent increase to: (i) winching and wrecking fees at N.J.A.C. 19:9-3.1(a)3; (ii) specialized equipment for routine towing services at N.J.A.C. 19:9-3.1(a)4; and (iii) hourly rates covering equipment listed for extra heavy duty towing and recovery services at N.J.A.C. 19:9-3.1(a)5.

Further, the amendments to storage rates at N.J.A.C. 19:9-3.1(b) propose a reduction in free storage for all vehicles from 24 hours to 12 hours. Additionally, storage rates will increase for passenger vehicles from \$25.00 to \$40.00 per calendar day, commencing after the first 12 hours. Thus, the amendments will require free storage for all vehicles for the first 12 hours, and storage will be charged for each calendar day thereafter at the applicable storage rate for each vehicle type set forth at N.J.A.C. 19:9-3.1(b)1, 2, and 3.

The amendments proposed at N.J.A.C. 19:9-3.2(a)1, road service rates governing Class 1 vehicles on the New Jersey Turnpike, provide for an increase in the service charge from \$60.00 to \$75.00. The amendments proposed at N.J.A.C. 19:9-3.2(a)7, tire repair/replacement services for trucks and buses on the New Jersey Turnpike, will increase the maximum service charge from \$125.00 to \$156.00, and the maximum labor rate will increase from \$75.00 per hour to \$94.00 per hour. The charge for an additional tire change on the New Jersey Turnpike will increase from \$25.00 to \$31.00 for each tire change beyond the first tire change.

The amendments proposed at N.J.A.C. 19:9-3.2(b)1, road service rates governing Class 1 vehicles on the Garden State Parkway, provide for an increase in the service charge from \$60.00 to \$75.00. The amendments proposed at N.J.A.C. 19:9-3.2(b)7, tire repair/replacement services for trucks and buses on the Garden State Parkway, will increase the maximum service charge from \$125.00 to \$156.00, and the maximum labor rate will increase from \$75.00 per hour to \$94.00 per hour. The charge for an

additional tire change on the Garden State Parkway will increase from \$25.00 to \$31.00 for each tire change beyond the first tire change.

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

Social Impact

The proposed amendments will enhance the competitive process for procuring towing services on the Roadways by increasing the pool of qualified towers and ensuring that there are sufficient qualified service providers available to provide safe, efficient, and reliable services to Authority patrons. The proposed amendments are anticipated to provide some relief to service providers who have and continue to operate their businesses under financial pressures of increased costs and COVID-19 disruptions and, in some cases involving small business operators, the proposed increases may be vital to their ability to continue in business.

Economic Impact

The Authority does not anticipate that the amendments will have a significant economic impact on the Authority patrons who may be in need of the services while on the Roadways. Many patrons may be insulated from any economic impact of the amendments as a result of insurance coverage for emergency towing or through their membership in automobile clubs from whom they may be reimbursed. Moreover, all service providers who are awarded contracts to provide towing services on the Roadways are required to honor valid AAA membership in payment of services. Further, the Authority believes that any economic impact is offset by the assurance that, should a patron be in need of assistance on an Authority Roadway, their need will be addressed by a qualified, competent service provider in a timely manner to ensure their safety and that of the traveling public.

Federal Standards Statement

The proposed 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 proposed amended rules.

Jobs Impact

The Authority believes that the proposed amendments may result in the addition of, or ability to maintain, employees at service provider businesses.

Agriculture Industry Impact

The Authority does not believe that the proposed amendments will have any impact on the agriculture industry in New Jersey.

Regulatory Flexibility Analysis

The proposed amendments do not impose any reporting or recordkeeping requirements; however, they may impose minimal compliance requirements on small business as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., to the extent that such small businesses intend to participate in future procurements for towing services on the Authority's Roadways. The proposed amendments increase the rates permitted to be charged. The proposed amendments will be applied uniformly to all segments of the business community, including small businesses, and are in no way unduly burdensome.

Housing Affordability Impact Analysis

The proposed 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 rules proposed for amendment concern towing services on the Authority's Roadways.

Smart Growth Development Impact Analysis

The proposed amendments will have an insignificant impact on smart growth, if any, and there is no likelihood that the rules proposed for amendment 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 rules proposed for amendment concern routine towing services on the Authority's Roadways.

Racial and Ethnic Community Criminal Justice and Public Safety Impact

The Authority 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 3. TOWING RATES

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 March 20, 2017,] shall not exceed the following rates or such rates as may be approved and amended by the Board from time to time in accordance with [P.L. 2003, c.79 (N.J.S.A. 27:23-42.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] **7,000** pounds G.V.W.R. (**generally, "Passenger Vehicles"**), for the purpose of towing rates only):

i. Service charge of \$[72.00]**108.00** plus:

(1) \$[3.50]**4.00** 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 \$[107.00; or]**148.00**.

(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 G.V.W.R.):

i. Class 2 Vehicles (for the purpose of towing rates only, straight truck (up to [14,999] **15,000** pounds [gross vehicle weight] **G.V.W.R.**), [car] **Passenger Vehicle** with trailer, or trailer without [car] **Passenger Vehicle**):

(1) Service charge of \$[132.00]**198.00** plus:

(A) \$[4.00]**4.50** per mile on the Roadway, up to a maximum, including the service charge, of \$[172.00; or]**243.00**.

(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 (**over** 15,000 pounds [or more] G.V.W.R.)), or any vehicle requiring the use of a Landoll tractor trailer:

(1) Service charge of \$[250.00]**375.00** plus \$[5.00]**5.75** per mile on the Roadway, up to a maximum, including the service charge, of \$[300.00]**432.50**.

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

(1) \$[30.00]**38.00** for connecting air lines and \$[30.00]**38.00** for connecting lights;

(2) \$[54.00]**68.00** for disconnecting drive shaft on all trucks;

(3) \$[48.00]**60.00** per axle for removing an axle; and

(4) \$[54.00]**68.00** for removing an air scoop.

3. Winching and wrecking (all classes of vehicles):

i. \$[80.00]**140.00** per hour for a light wrecker;

ii. \$[130.00]**228.00** per hour for a heavy wrecker; and

iii. Winching fees set forth [under] **pursuant to** this section shall only be charged for winching activities that occur when a [motor] vehicle has left the Roadway, overturned, or become embedded, attached, or hitched to a tree, pole, guardrail, or other fixed object. Winching for purposes of this paragraph shall not include the act of pulling a [motor] vehicle onto a tilt bed or carrier or lifting a [motor] vehicle with a conventional tow sling.

4. Specialized equipment for routine towing services:

i. \$[250.00]**438.00** per hour for specialized equipment, including, but not limited to, Oshkosh box trailer with tractor; and

ii. \$[450.00]**788.00** per hour for Rotator 60-ton capacity and up, and for 50-ton construction crane.

5. Extra heavy duty towing and recovery services, which shall mean when used in this section, the immediate, coordinated, professional response by authorized extra heavy duty towing and recovery service contractors to incidents that have occurred on the Roadway, causing or having the potential to cause serious and lengthy disruption to Roadway operations, specifically, the normal flow of traffic, as determined in the sole discretion of the Authority. These incidents include, but are not limited to, large overturned commercial vehicles such as trucks, buses, or spillage of products that require the use of special heavy duty recovery equipment and expertise to resolve. Extra heavy duty towing and recovery service contractors must provide service under critical time restraints and work under severe pressure in an effort to return the Roadway to normal operating conditions. Recovery equipment must be operated in a team response and coordinated effort, providing the utmost safety and care in the actual operation, which will include, but not be limited to, winching, uprighting of overturned commercial vehicles, towing and expeditious removal of all vehicles, as well as the expeditious removal of cargo and debris from the affected Roadway. The Authority-authorized extra heavy duty towing and recovery services contractor shall be solely responsible for the removal of all such vehicles, cargo, and debris.

i. Rates for the following extra heavy duty towing and recovery services, chargeable in one-half hour increments by Authority-authorized extra heavy duty towing and recovery services contractors, shall not exceed the following amounts:

Equipment:	
Heavy duty wreckers	\$[250.00]438.00 per hour
Landoll w/tractor	\$[250.00]438.00 per hour
Relief box trailer	\$[250.00]438.00 per hour
60-ton rotator	\$[450.00]788.00 per hour
50-ton construction crane	\$[450.00]788.00 per hour
Light duty flatbed	\$[60.00]105.00 per hour
Light duty tow truck with wheel lift	\$[60.00]105.00 per hour
Relief refrigerated tractor trailer	\$[300.00]525.00 per hour
Tractor only	\$[200.00]350.00 per hour
Heavy duty flatbed	\$[250.00]438.00 per hour
Service truck	\$[250.00]438.00 per hour
Front end loader (two-yard minimum bucket)	\$[250.00]438.00 per hour
Bob cat/skid steer	\$[250.00]438.00 per hour
Fork lift (5,000 pounds minimum capacity)	\$[250.00]438.00 per hour
Backhoe	\$[250.00]438.00 per hour
Dump truck	\$[250.00]438.00 per hour
Dump trailer w/tractor	\$[250.00]438.00 per hour
Roll off container (40-yard) + disposal fee	\$[250.00]438.00 per hour
Light tower (two-light minimum)	\$[150.00]263.00 per hour
Pallet jacks	\$[200.00]350.00 flat fee
Rollers (Off Load)	\$[200.00]350.00 flat fee
Labor:	
Supervisor (Wreck Master)	\$150.00 per hour
Tech Labor (Driver, Rigger)	\$100.00 per hour
Manual Labor	\$75.00 per hour

(b) Storage rates charged by Authority-authorized companies [pursuant to contracts entered into after September 18, 2017,] shall not exceed the following rates or such rates as may be approved and amended by the Board from time to time in accordance [with P.L. 2003, c. 79 (N.J.S.A. 27:23-42.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. [Cars] **Passenger Vehicles**: First [24] **12** hours free; \$[25.00]40.00 per calendar day thereafter.

2. Vehicles up to [14,999] **15,000** pounds G.V.W.R.: First [24] **12** hours free; \$75.00 per calendar day thereafter.

3. Vehicles over [14,999] **15,000** pounds G.V.W.R.:

i. All except buses: First [24] **12** hours free; \$75.00 per unit per calendar day thereafter; **and**

ii. Buses: First [24] **12** hours free; \$150.00 per calendar day thereafter.

19:9-3.2 Road services rates on the Roadway

(a) Road service rates on the Turnpike for Class 1 [vehicles] **Vehicles** charged by Authority-authorized service companies [pursuant to contracts entered into after March 20, 2017,] shall conform with the following rates or such rates as may be approved and amended by the Board from time to time in accordance [with P.L. 2003, c.79 (N.J.S.A. 27:23-42.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: \$[60.00]75.00;

2.-6. (No change.)

7. Tire repair/replacement services for trucks and buses: The service charge to be charged by a contractor shall not exceed \$[125.00]156.00. The maximum hourly labor rate shall not exceed \$[75.00]94.00 per hour. The only charges that a contractor may charge a patron are: the service charge bid by the contractor; if applicable, the hourly labor rate bid by the contractor multiplied by the actual time spent by the contractor at the scene, beyond the initial one-half hour, in repairing/replacing tires and/or rims; if applicable, an additional tire service charge of \$[25.00]31.00 for each additional tire change beyond the first tire change; and the retail price of any supplied tires or rims and any other related equipment supplied. No other charges are permitted. The terms "contractor," "service charge," "hourly labor rate," and "additional tire service charge" are defined terms that shall have the meanings set forth in the procurement documents issued by the Authority from time to time for tire repair/replacement services for trucks and buses.

(b) Road service rates on the Parkway for Class 1 [vehicles] **Vehicles** charged by Authority-authorized towing and emergency service providers [pursuant to contracts entered into after March 20, 2017,] shall conform with the following rates or such rates as may be approved and amended by the Board from time to time in accordance [with P.L. 2003, c.79 (N.J.S.A. 27:23-42.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: \$[60.00]75.00;

2.-6. (No change.)

7. Tire repair/replacement services for trucks and buses: The service charge to be charged by a contractor shall not exceed \$[125.00]156.00. The maximum hourly labor rate shall not exceed \$[75.00]94.00 per hour. The only charges that a contractor may charge a patron are: the service charge bid by the contractor; if applicable, the hourly labor rate bid by the contractor multiplied by the actual time spent by the contractor at the scene, beyond the initial one-half hour, in repairing/replacing tires and/or rims; if applicable, an additional tire service charge of \$[25.00]31.00 for each additional tire change beyond the first tire change; and the retail price of any supplied tires or rims and any other related equipment supplied. No other charges are permitted. The terms "contractor," "service charge," "hourly labor rate," and "additional tire service charge" are defined terms that shall have the meanings set forth in the procurement documents issued by the Authority from time to time for tire repair/replacement services for trucks and buses.