

safeguarding unused order forms. Subchapter 7 sets forth prescription requirements for controlled dangerous substances.

Subchapter 8 contains miscellaneous provisions related to definitions; application of State and other Federal law; exceptions to regulations; distribution by a dispenser to another practitioner or reverse distributor; manufacture and distribution of narcotic solutions and compounds by a pharmacist; distribution to supplier; distribution upon discontinuance or transfer of business; distribution to ocean vessels or aircraft; incidental manufacture of controlled substances; the procedure for disposing of controlled substances; registrant return or recall; reverse distributor authorized activities; notification from registrants authorized to collect controlled substances; the Native American Church; and humane societies and animal care facilities.

Subchapter 9 is a reserved subchapter. Subchapter 10 contains the schedules of controlled dangerous substances. Subchapter 11 sets forth the requirements for narcotic treatment programs.

In compliance with N.J.S.A. 52:14B-5.1, the Director, in consultation with the Division's Drug Control Unit, undertook a thorough review of the existing provisions at N.J.A.C. 13:45H. The Director believes that the rules are necessary, reasonable, understandable, and responsive to the purposes for which they were originally promulgated, as required by Executive Order No. 66 (1978). Therefore, pursuant to N.J.S.A. 24:21-9, and in accordance with N.J.S.A. 52:14B-5.1.c(1), these rules are readopted without change and shall continue in effect for a seven-year period.

STATE

(a)

STATE PLANNING COMMISSION

Notice of Extension of Chapter Expiration Date State Planning Rules

N.J.A.C. 5:85

Take notice that the State Planning Commission (SPC) informed Governor Phillip D. Murphy that N.J.A.C. 5:85, was scheduled to expire on July 22, 2022, pursuant to the sunset provisions at N.J.S.A. 52:14B-5.1.

The rules at N.J.A.C. 5:85 serve to regulate procedures to implement the State Planning Act (N.J.S.A. 52:18A-196 et seq.). The rules set forth procedures and guidelines that regulate the implementation of the State Development and Redevelopment Plan, define the responsibilities of the Office of Planning Advocacy, set forth the procedures for the Plan Endorsement process, identify State agency responsibilities related to the State Planning Act, and guide the procedures regarding the State Plan Policy Map. Continuing these rules will allow the State Planning Commission and the Office of Planning Advocacy to continue to implement the State Development and Redevelopment Plan and to provide land-use guidance and technical assistance to municipalities.

By the authority vested in him pursuant to N.J.S.A. 52:14B-5.1.d(2), Governor Phillip D. Murphy, on July 13, 2022, directed that the seven-year sunset provision of N.J.S.A. 52:14B-5.1 be extended for N.J.A.C. 5:85 from July 22, 2022 to July 22, 2023.

OTHER AGENCIES

(b)

NEW JERSEY TURNPIKE AUTHORITY

New Jersey Turnpike Authority Towing Rates and Road Services Rates

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

Proposed: March 7, 2022, at 54 N.J.R. 413(a).

Adopted: June 28, 2022, by the New Jersey Turnpike Authority,
John M. Keller, Executive Director.

Filed: July 1, 2022, as R.2022 d.097, **without change**.

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

Effective Date: August 1, 2022.

Expiration Date: August 24, 2024.

Summary of Public Comments and Responses:

Jonathan Testa, Esq., on behalf of the Garden State Towing Association

1. COMMENT: As compared to many non-toll roads in this State, the majority of the Turnpike and Parkway towing rates have only seen nominal increases, if any at all, from 1995 through 2019, despite a significant reduction in accident clearance time. A review of the New Jersey Turnpike Authority's ("NJTA" or "Authority") regulations over the last 12 years makes clear that the maximum tow rates for trucks and buses 12 years ago have remained identical to the current rates.

Equipment and labor rates have also remained the same for over a decade.

Towing companies saw a drastic increase in annual overhead costs beginning in 2016 due to increased costs for commercial insurance, labor, gas, and equipment. Despite increases in the number of Turnpike/Parkway drivers, toll rates, fuel costs, and towing industry overhead operational costs, the NJTA has not made any real change in the rate regulations during this time. COVID-19 has only exacerbated the problem as the current average cost for diesel fuel is now \$5.50 per gallon, with further increases expected throughout this year.

The towing industry has lost trained, experienced, and highly skilled drivers to other businesses; and many companies have already been forced to abandon their Turnpike/Parkway contracts all together. The initial proposed rules are a step in the right direction to reach a reasonable solution to these problems, but more needs to be done to increase the rates, so they are more in-line with current New Jersey State Police towing rates-reviewed and approved by the New Jersey Attorney General's Office and presumed fair and reasonable-to address the accelerating operational costs the towing service industry currently faces in the New Jersey market.

Further increase to the rates by the NJTA will help towers keep well-trained and experienced employees on staff, allow for the re-hiring of former staff that left for better pay, and enable towers to reinvest in aging equipment to better serve the needs of the Turnpike and Parkway. Based upon the above, in order by specific regulation, the Association respectfully submits the following suggested changes to the NJTA-proposed rates:

1. N.J.A.C. 19:9-3.1(a)1i(1), per-mile rate for class 1 vehicles should be further increased from \$4.00 per mile to \$5.00 per mile and the maximum service charge increased from \$148.00 to \$158.00;

2. N.J.A.C. 19:9-3.1(a)2i(1)(A), per-mile rate for class 2 vehicles should be further increased from \$4.50 per mile to \$6.00 per mile;

3. N.J.A.C. 19:9-3.1(a)2ii(1), base service charge for class 3 vehicles should be further increased from \$375.00 to \$438.00; the per-mile rate should be further increased from \$5.75 per mile to \$8.00 per mile; and the maximum service charge should be further increased from \$432.50 to \$518.00;

4. N.J.A.C. 19:9-3.1(a)2iii(1), fee for connecting air lines and connecting lights should be further increased from \$38.00 to \$50.00;

5. N.J.A.C. 19:9-3.1(a)2iii(2), fee for disconnecting drive shaft should be further increased from \$68.00 to \$75.00;

6. N.J.A.C. 19:9-3.1(a)2iii(3), per-axle fee for removing each axle should be further increased from \$60.00 per-axle to \$75.00 per axle;

7. N.J.A.C. 19:9-3.1(a)2iii(4), fee for removing an air scoop should be further increased from \$68.00 to \$75.00;

8. N.J.A.C. 19:9-3.1(a)3ii, hourly rate for a heavy wrecker should be further increased from \$228.00 per hour to \$260.00;

9. N.J.A.C. 19:9-3.1(a)4ii, per-hour rate for Rotator 60-ton capacity and up, and for 50-ton construction crane should be further increased from \$788.00 per hour to \$900.00 per hour;

10. N.J.A.C. 19:9-3.1(a)5i, rates for 60-ton Rotator and 50-ton construction crane should be further increased from \$788.00 per hour to \$900.00 per hour;

11. N.J.A.C. 19:9-3.1(a)5i, rates for a light duty flatbed, as well as a light duty flatbed with wheel lift, should both be further increased from \$105.00 per hour to \$140.00 per hour, respectively;

12. N.J.A.C. 19:9-3.1(a)5i, hourly rate for a tractor only should be further increased from \$350.00 to \$438.00;

13. N.J.A.C. 19:9-3.1(a)5i, the hourly rates for labor regarding supervisor should be increased from \$150.00 to \$200.00 per hour, tech labor should be increased from \$100.00 to \$150.00 per hour, and manual labor should be increased from \$75.00 to \$125.00 per hour;

14. N.J.A.C. 19:9-3.1(b)1, storage rates for passenger vehicles should be further increased from \$40.00 to \$45.00 dollars per calendar day after the initial 12-hour grace period;

15. N.J.A.C. 19:9-3.1(b)3i, storage rates for vehicles over 15,000 pounds should be increased from \$75.00 per mile per calendar day to \$150.00 per mile per calendar day after the initial 12-hour grace period, as the regulations do not consider the length of the vehicle and the space the vehicle takes up in our towers' storage yards;

16. N.J.A.C. 19:9-3.1(b)3ii, storage rates for buses over 15,000 pounds should be increased from \$150.00 per calendar day to \$200.00 per calendar day after the initial 12-hour grace period, as the regulations do not consider the length of the vehicle and the space the vehicle takes up in our towers' storage yards; and

17. N.J.A.C. 19:9-3.2(a)1, the Road Service charge should be further increased from \$75.00 to \$105.00. Without these further requested increases, we believe that many towing businesses that service the New Jersey Turnpike and Garden State Parkway will not be able to survive the next five years, especially given the significant increases in inflation and overhead costs that have more than doubled since 2016.

RESPONSE: The New Jersey Turnpike Authority ("NJTA" or "Authority") operates two of the busiest toll roads in North America. The NJTA's success as a national leader in incident response, recovery, and roadway clearance times is partly due to its relationship with the State of New Jersey's highway towing and recovery industry.

The proposed rates by the NJTA on March 7, 2022, were designed by applying and adjusting for current market influences, such as insurance, storage, real estate taxes, fuel costs, and employee competition by other industries. At the time of the design of these proposed rates, the existing 40-year high national inflation was in its early stages and the guidance given by the Federal Reserve was that this inflation was transitory. Furthermore, the volatility created by the 2022 Russian Federation invasion of Ukraine was in its infancy. Both issues appear to be more enduring than initially forecast.

The Association's comment requests an additional increase to the proposed rates for basic and specialized towing and recovery services. While the NJTA acknowledges an additional increase to the proposed rates may be warranted given more recent events, in order to implement the proposed rates effective August 1, 2022, and provide timely adjustments to existing rates to immediately address the negative impact upon NJTA towers, the NJTA is moving forward with its initial increased rates at this time. The NJTA intends to subsequently consider additional increases in line with existing market conditions, as well as some limited downward adjustments to confirm with established New Jersey State Police thresholds, at a future date.

Stephanie L. Sikora, Esq., on behalf of New Jersey Manufacturers Insurance Company

2. COMMENT: Regarding certain heavy-duty towing rates, the New Jersey State Police (NJSP) responds to accidents that occur on the Turnpike and the Parkway and NJSP maximum rates were created in cooperation with the Garden State Towing Association, whose members provide services on the Turnpike and the Parkway. Certain heavy-duty towing rates proposed by the Authority exceed the maximum NJSP rates, and we recommend that these rates be aligned for consistency and cost-containment purposes. For example, the Authority's proposed service provider rate for refrigerated trailers is \$525.00 per hour, whereas NJSP limits this rate to \$450.00 per hour. Similarly, the Authority's proposed service provider rate for front-end loaders is \$438.00 per hour, whereas NJSP limits this rate to \$300.00 per hour.

We understand that the Authority is seeking to bring its service provider fees in line with those of other regional toll roads, as well as to

address challenges currently impacting service providers. However, some of the proposed heavy-duty towing rates exceed the NJSP maximum rates by significant amounts. As NJSP maximum rates were created with input from the Garden State Towing Association, we recommend that the Authority's limits on fees charged by service providers align with NJSP maximum rates.

RESPONSE: The NJTA intends to subsequently consider some limited downward adjustments to conform with the established New Jersey State Police thresholds at a future date, as noted in the Response to Comment 1.

John Tumino, on behalf of Tumino's Towing Inc., and Angie Haines, on behalf of Haines Towing Inc. (combined for similarity)

3. COMMENT: Due to the rising cost of fuel, which is currently at unprecedented highs, it is imperative for toll road towers to be able to cover the extra costs in order to continue to provide emergency towing and roadside services on the Parkway and Turnpike. We are requesting the Authority to allow its towers to charge a "fuel surcharge" in amounts that are fair and reasonable to industry standards. We believe this surcharge could be enacted immediately under the provisions established in Item 21 of Section II in the Prequalification of Contractors for Routine Towing Services on the New Jersey Turnpike and Garden State Parkway, which provides for "Extraordinary Circumstances." Also, multiple items were not increased, such as storage on Class III vehicles.

RESPONSE: The NJTA will provide for fuel surcharges, under appropriate circumstances, in its contractual documents with successful towing and recovery companies through the pre-established NJTA open bidding process. The NJTA elects not to impose fuel surcharge rules through Title 19 of the New Jersey Administrative Code. Fuel surcharges will not be imposed on Authority patrons but will be a contractual obligation of the Authority.

As to the Class III vehicles storage rate, the NJTA intends to consider changes, as discussed in the Response to Comment 1.

Sean Cody, on behalf of B & L Towing & Recovery

4. COMMENT: The time since the last small rate increase is five years, and prior to that it was 13 years for a minor increase. Prior to these small increases, it was many years since the last change in towing rates, which was actually a decrease in tractor trailer towing and a slight increase in light duty rates. There has never been a comparable increase close to the costs of doing business, including the cost of living, insurance, fuel, equipment, labor and driver/operator costs. Inflation has hit close to eight percent, fuel is now at \$6.50 per gallon. These rates should be increased by 15 to 20 percent, from storage to all types of towing and recovery rates.

A fuel surcharge is no doubt needed for the towing companies to be able to continue servicing the Authority's needs. For reference to how important this is to the tow garages contracted to tow on the Parkway or Turnpike, on January 3, 2022, diesel fuel was at a competitive rate \$3.46 per gal. On May 3, 2022, diesel fuel is an outrageously high \$6.41. Please consider a fuel surcharge to be allowed to the garages, that clear your roadways everyday; 24 hours, seven days per week, as well as a 15 to 20 percent additional rate increase to cover the outrageously high costs of doing business in New Jersey.

RESPONSE: While the NJTA acknowledges an additional increase to adopted rates may be warranted given more recent events, the NJTA is proceeding with this rulemaking as proposed at this point in time. See also the Response to Comment 1.

Federal Standards Statement

The adopted 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 adopted amendments.

Full text of the adoption follows:

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 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

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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 7,000 pounds G.V.W.R. (generally, "Passenger Vehicles"), for the purpose of towing rates only):

i. Service charge of \$108.00 plus:

(1) \$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 \$148.00.

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 15,000 pounds G.V.W.R.), Passenger Vehicle with trailer, or trailer without Passenger Vehicle):

(1) Service charge of \$198.00 plus:

(A) \$4.50 per mile on the Roadway, up to a maximum, including the service charge, of \$243.00.

ii. Class 3 Vehicles (for the purpose of towing rates only, tractor trailer, bus (over 15,000 pounds G.V.W.R.)), or any vehicle requiring the use of a Landoll tractor trailer:

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

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

(1) \$38.00 for connecting air lines and \$38.00 for connecting lights;

(2) \$68.00 for disconnecting drive shaft on all trucks;

(3) \$60.00 per axle for removing an axle; and

(4) \$68.00 for removing an air scoop.

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

i. \$140.00 per hour for a light wrecker;

ii. \$228.00 per hour for a heavy wrecker; and

iii. Winching fees set forth pursuant to this section shall only be charged for winching activities that occur when a 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 vehicle onto a tilt bed or carrier or lifting a vehicle with a conventional tow sling.

4. Specialized equipment for routine towing services:

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

ii. \$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	\$438.00 per hour
Landoll w/tractor	\$438.00 per hour
Relief box trailer	\$438.00 per hour
60-ton rotator	\$788.00 per hour

50-ton construction crane	\$788.00 per hour
Light duty flatbed	\$105.00 per hour
Light duty tow truck with wheel lift	\$105.00 per hour
Relief refrigerated tractor trailer	\$525.00 per hour
Tractor only	\$350.00 per hour
Heavy duty flatbed	\$438.00 per hour
Service truck	\$438.00 per hour
Front end loader (two-yard minimum bucket)	\$438.00 per hour
Bob cat/skid steer	\$438.00 per hour
Fork lift (5,000 pounds minimum capacity)	\$438.00 per hour
Backhoe	\$438.00 per hour
Dump truck	\$438.00 per hour
Dump trailer w/tractor	\$438.00 per hour
Roll off container (40-yard) + disposal fee	\$438.00 per hour
Light tower (two-light minimum)	\$263.00 per hour
Pallet jacks	\$350.00 flat fee
Rollers (Off Load)	\$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 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 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. Passenger Vehicles: First 12 hours free; \$40.00 per calendar day thereafter.

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

3. Vehicles over 15,000 pounds G.V.W.R.:

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

ii. Buses: First 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 charged by Authority-authorized service companies 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 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: \$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 \$156.00. The maximum hourly labor rate shall not exceed \$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 \$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 charged by Authority-authorized towing and emergency service providers 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 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:

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1. Road service charge: \$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 \$156.00. The maximum hourly labor rate shall not exceed \$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 \$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.
