

SUBTITLE E. NEW JERSEY TURNPIKE AUTHORITY

CHAPTER 9

NEW JERSEY TURNPIKE AUTHORITY

Authority

P.L. 2003, c.79, specifically N.J.S.A. 27:23-42b(7).

Source and Effective Date

R.2003 d.407, effective September 23, 2003.
See: 35 N.J.R. 4915(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 9, New Jersey Turnpike Authority, expires on July 8, 2005. See: 36 N.J.R. 4415(a).

Chapter Historical Note

Chapter 9, New Jersey Turnpike Authority, was filed and became effective December 3, 1963.

Subchapter 9 was adopted as R.1973 d.173, effective June 29, 1973. See: 5 N.J.R. 205(b), 5 N.J.R. 295(b).

Pursuant to Executive Order 66(1978), Chapter 9, New Jersey Turnpike Authority, was readopted as R.1983 d.301, effective July 13, 1983. See: 15 N.J.R. 886(a), 15 N.J.R. 1257(a). Subchapter 9 was repealed and adopted as new rules by R.1983 d.556, effective December 5, 1983. See: 15 N.J.R. 1639(a), 15 N.J.R. 2046(d). Pursuant to Executive Order 66(1978), Chapter 9 expired on July 13, 1988.

Chapter 9, New Jersey Turnpike Authority, was adopted as new rules by R.1988 d.483, effective October 17, 1988. See: 20 N.J.R. 1338(a), 20 N.J.R. 2591(a).

Subchapter 7 was adopted as R.1989 d.444, effective July 24, 1989. See: 21 N.J.R. 2528(b).

Subchapter 6 was adopted as R.1989 d.580, effective November 20, 1989. See: 21 N.J.R. 2440(a), 21 N.J.R. 3675(a).

Pursuant to Executive Order No. 66(1978), Chapter 9, New Jersey Turnpike Authority, was readopted as R.1993 d.496, effective September 13, 1993. See: 25 N.J.R. 2839(b), 25 N.J.R. 3685(a), 25 N.J.R. 4605(a). Administrative Correction. See: 25 N.J.R. 4927(c).

Pursuant to Executive Order No. 66(1978), Chapter 9, New Jersey Turnpike Authority, was readopted as R.1998 d.492, effective September 11, 1998, and Subchapter 8, Debarment, Suspension and Disqualification from Contracting, was adopted by R.1998 d.492, effective October 5, 1998. See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

Chapter 9, New Jersey Turnpike Authority, was readopted as R.2003 d.407, effective September 23, 2003. See: 35 N.J.R. 4915(a). See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. TRAFFIC CONTROL ON NEW JERSEY TURNPIKE

19:9-1.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Abandoned vehicles" means any vehicle whose occupants leave the vehicle unattended on the Turnpike for any reason for any period of time.

"Authority" means the New Jersey Turnpike Authority, the body corporate and politic defined in N.J.S.A. 27:23-1 et seq., acting by and through the duly appointed commissioners thereof and their designees.

"Bicycle" means any vehicle with two wheels supported by a frame propelled by the feet acting upon pedals.

"Commercial vehicles" means every type of motor driven vehicle used for commercial purposes on the Turnpike such as the transportation of goods, wares and merchandise, excepting such vehicle of the passenger car type.

"Construction equipment" means all vehicles, machinery and equipment enumerated in N.J.S.A. 39:3-20.

"Gross combination weight rating (G.C.W.R.);" means the value specified by the manufacturer as the loaded weight of a combination vehicle.

"Gross vehicle weight rating (G.V.W.R.);" means the value specified by the manufacturer as the loaded weight of a single vehicle.

"Gross weight" means the combined weight of a vehicle and any load thereon.

"Interstate 95 Extension" means that portion of Interstate Highway 95 previously maintained by the New Jersey Department of Transportation and transferred to the Authority by N.J.S.A. 27:23-23.7, beginning at milepost 117.9+ and thence in a general northerly direction to milepost 122.0+, and all bridges, tunnels, underpasses, interchanges, entrance plazas, approaches, toll houses, service areas, service stations, service facilities, communication facilities, and administration, storage and other buildings which the Authority may deem necessary for the operation of such extension, together with all property, rights, easements and interests which may be acquired by the Authority for the construction or the operation of such extension and all other property within the Interstate 95 Extension right-of-way.

"Motorcycles" means all motor operated vehicles of the bicycle or tricycle type, whether the motor power being a part thereof or attached thereto and having a saddle or seat with driver seat astride or upon it.

"Motor trucks" means every motor vehicle designed, used or maintained primarily for the transportation of property, which property is not affixed to or a necessary part of the design or construction of the vehicle itself.

"Official traffic control devices" means only those signs, signals, markings and devices approved and accepted by the Authority and placed, erected or caused to be placed or erected by the Authority for the purpose of regulating, warning or guiding traffic on the Turnpike.

"Omnibus" means any motor vehicle capable of transporting 10 or more passengers and registered as a bus, as indicated by the letter "O" preceding the registration number or the word "Bus" or "Omnibus" on the vehicle's license plate. Vehicles with the letters "CV" or the word "Livery" or "Autocab" on the license plate are excluded from this definition.

“Passenger vehicles” means all automobiles used and designed for the transportation of passengers other than omnibuses and school buses, irrespective of whether the

vehicle has commercial or noncommercial registration license plates.

"Recreational vehicle" means a self-propelled or towed vehicle equipped to serve as temporary living quarters for recreational, camping or travel purposes and used solely as a family or personal conveyance.

"Semitrailer" means every vehicle with or without motive power, including a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some parts of its weight and that of its load rests upon or is carried by another vehicle.

"Trailer" means every vehicle with or without motive power, including a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

"Truck-tractor" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

"Turnpike" means any express highway, superhighway or motorway at such locations and between such termini as may hereafter be established by law, owned and/or operated under the provisions of N.J.S.A. 27:23-1 et seq. by the Authority, and shall include, but not be limited to, all bridges, tunnels, underpasses, interchanges, entrance plazas, approaches, toll houses, service areas, service stations, service facilities, communication facilities, and administration, storage and other buildings which the Authority may deem necessary for the operation of such project, together with all property, rights, easements and interests which may be acquired by the Authority for the construction or the operation of such project and all other property within the Turnpike right-of-way.

"Turnpike right-of-way" means the area continued within the right-of-way lines as designated on Turnpike parcel property maps filed in the respective county clerk's office of each county in which the Turnpike is located.

"Vehicles" means every device in, upon or by which a person or property is or may be transported upon a highway.

Amended by R.1974 d.227, effective October 1, 1974.

See: 6 N.J.R. 209(c), 6 N.J.R. 370(c).

Amended by R.1977 d.63, effective March 1, 1977.

See: 9 N.J.R. 56(a), 9 N.J.R. 203(a).

Amended by R.1992 d.379, effective October 5, 1992.

See: 24 N.J.R. 2692(a), 24 N.J.R. 3534(d).

Revised definition "New Jersey Turnpike."

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Amended by R.1998 d.520, effective November 2, 1998.

See: 30 N.J.R. 2368(a), 30 N.J.R. 3971(a).

Added new "Recreational vehicle" definition.

Case Notes

Statutory objective may be examined to determine whether act of State Turnpike Authority is statutorily authorized. *State v. Levinson*, 225 N.J.Super. 135, 541 A.2d 1110 (A.D.1988).

Regulations of State Turnpike Authority are afforded rebuttable presumption of validity. *State v. Levinson*, 225 N.J.Super. 135, 541 A.2d 1110 (A.D.1988).

19:9-1.2 Speed limits

(a) Vehicles shall not be operated at a speed in excess of 65 miles per hour on the Turnpike:

1. Between milepost 1.2 and milepost 97.2;

2. On the Pennsylvania Turnpike Extension eastbound between milepost P-1.6 and the Turnpike mainline at milepost P-5.8; or

3. On the Pennsylvania Turnpike Extension westbound between the Turnpike mainline at milepost P-5.8 and milepost P-3.7.

(b) A person determined to be in violation of (a) above shall be subject to the fine for a motor vehicle offense in double the amount specified by law, in accordance with N.J.S.A. 39:4-98.6 and 27:23-29.

(c) Vehicles shall not be operated on the Turnpike on the Newark Bay-Hudson County Extension between milepost N-0 and milepost N-8 at a speed in excess of 50 miles per hour.

(d) Vehicles shall not be operated on the Pennsylvania Turnpike Extension eastbound between the Delaware River Turnpike Bridge at milepost P-0.0 (Pennsylvania-New Jersey State line) and milepost P-1.6 at a speed in excess of 50 miles per hour.

(e) Vehicles shall not be operated on the Pennsylvania Turnpike Extension westbound between milepost P-3.7 and P-1.0 at a speed in excess of 55 miles per hour and between milepost P-1.0 and the Delaware River Turnpike Bridge at milepost P-0.0 (Pennsylvania-New Jersey State line) at a speed in excess of 50 miles per hour.

(f) Except as specified in (a) through (e) above, vehicles shall not be operated elsewhere on the Turnpike at a speed in excess of 55 miles per hour except at such locations as shall be designated for test purposes.

(g) Where signs prescribing a lesser speed are posted or erected by a person or persons authorized by the Authority to post or erect such signs, no vehicle within the area or zone or section where such signs are posted or erected shall be operated in excess of the speed prescribed by said signs.

(h) Consistent with the requirements of this section, any vehicle operated on the Turnpike shall at all times be operated at an appropriate reduced speed when specified hazards exist with respect to traffic, road, weather or other conditions irrespective of the posted speed limit.

(i) No vehicle shall be operated anywhere on the Turnpike at a speed of less than 35 miles per hour on level ground, except where otherwise posted or when specific hazards exist with respect to traffic, road or weather conditions.

Amended by R.1972 d.146, effective July 27, 1972.
 See: 4 N.J.R. 109(c), 4 N.J.R. 199(c).
 Amended by R.1977 d.63, effective March 1, 1977.
 See: 9 N.J.R. 56(a), 9 N.J.R. 203(a).
 Amended by R.1989 d.60, effective February 6, 1989.
 See: 20 N.J.R. 2684(b), 21 N.J.R. 314(a).
 Deleted (e) and recodified (f) to (e).
 Amended by R.1993 d.496, effective October 4, 1993.
 See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).
 Amended by R.2003 d.287, effective July 21, 2003.
 See: 34 N.J.R. 2207(a), 35 N.J.R. 3392(a).
 Rewrote the section.

19:9-1.3 Traffic control

(a) The regulating, warning or guiding of all traffic on the Turnpike shall be governed by official traffic control devices.

(b) No vehicle shall operate an emergency flashing light of any color on the Turnpike except State Police vehicles, the Authority's maintenance and official vehicles, contractors' private vehicles while in the performance of authorized Turnpike duties, vehicles on the Turnpike for the purpose of furnishing authorized towing and other services to disabled vehicles, and all other vehicles performing emergency services, such as ambulances and fire engines, when they are properly in use in the performance of authorized Turnpike duties.

(c) All official traffic control devices on the Turnpike shall be obeyed by the operators of all vehicles unless a State Police officer or authorized Authority personnel directs otherwise.

Amended by R.1977 d.63, effective March 1, 1977.
 See: 9 N.J.R. 56(a), 9 N.J.R. 203(a).
 Amended by R.1993 d.496, effective October 4, 1993.
 See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).
 Amended by R.1994 d.414, effective August 15, 1994.
 See: 26 N.J.R. 337(a), 26 N.J.R. 3463(a).

19:9-1.4 Uniform direction of traffic

(a) No vehicle shall be operated, pushed or otherwise caused to move in a direction which is against the normal flow of traffic.

(b) No vehicle shall be operated on a roadway lane where lane usage by that classification of vehicle is prohibited by appropriate signs.

(c) Excepted from the provisions of this section are State Police vehicles, the Authority's maintenance and official vehicles and vehicles authorized to furnish towing and other services to disabled vehicles on the Turnpike, and all other vehicles discharging emergency functions, such as ambulances and fire engines, when they are properly in use in the performance of authorized Turnpike duties; provided that no such excepted vehicles shall be operated against the normal flow of traffic or contrary to classification prohibitions so as to create a hazard to other vehicles.

Amended by R.1993 d.496, effective October 4, 1993.
 See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).
 Amended by R.1994 d.414, effective August 15, 1994.
 See: 26 N.J.R. 337(a), 26 N.J.R. 3463(a).

19:9-1.5 "U" turns prohibited

(a) The making of a "U" turn at any point on the Turnpike is prohibited.

(b) The direction of travel of any vehicle operated on the Turnpike shall be reversed only by passing through an interchange.

(c) Excepted from the provisions of this section are State Police vehicles, the Authority's maintenance and official vehicles and vehicles authorized to furnish towing and other services to disabled vehicles on the Turnpike, and all other vehicles discharging emergency functions, such as ambulances and fire engines, when they are properly in use in the performance of authorized Turnpike duties; provided however, that this exception shall be for the sole purpose of crossing from a traffic lane carrying vehicles in one direction to a traffic lane carrying vehicles bound in the opposite direction; and provided further, that no such excepted vehicles shall make such crossing so as to create a hazard to other vehicles.

(d) The making of a "U" turn on a toll plaza shall be done only at the direction of and under the supervision of toll plaza personnel.

Amended by R.1977 d.63, effective March 1, 1977.
 See: 9 N.J.R. 56(a), 9 N.J.R. 203(a).
 Amended by R.1993 d.496, effective October 4, 1993.
 See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).
 Amended by R.1994 d.414, effective August 15, 1994.
 See: 26 N.J.R. 337(a), 26 N.J.R. 3463(a).

19:9-1.6 Parking, standing or stopping on Turnpike prohibited, except in case of emergency

(a) No vehicle shall be parked, stopped, loaded or unloaded or allowed to stand on the Turnpike except where otherwise posted or expressly permitted by the Authority. Excepted from the provisions of this section while in the performance of assigned duties are State Police vehicles, the Authority's maintenance and official vehicles and vehicles authorized to furnish towing and other services to disabled vehicles on the Turnpike, and all other vehicles discharging emergency functions, such as ambulances and fire engines, when they are properly in use in the performances of authorized duties, provided that no such excepted vehicles shall be stopped so as to create a hazard to other vehicles.

(b) "Emergency," for the purposes of this section, shall be defined and construed to exist only when the vehicle in question can not be moved.

(c) In the event of an emergency, vehicles are permitted to stop or stand on the shoulders of the traffic lanes with all wheels and projecting parts of any such vehicles, including the load thereof, completely clear of the traffic lanes.

(d) In the event of an emergency on those portions of the traveled roadway of the Turnpike where there are no shoulders, the operator of the vehicle shall take reasonable precautions, under the circumstances, to warn others of his or her vehicle's presence in the traffic lanes, and the operator shall move his or her vehicle as soon as the vehicle is physically operable.

(e) Any vehicle involved in an emergency as defined above shall be removed as promptly as possible from the Turnpike.

(f) No vehicle is permitted to stop or stand on any portion of the Turnpike for more than two continuous hours, except that parking is allowed in the designated areas

of facilities used for bus, vanpool, carpool and related operations (hereinafter "Park-n-Ride") for more than two continuous hours; provided, however, that parking in Park-n-Rides is prohibited before and after the posted hours of operation unless the requisite permits have been obtained. In addition to the State Police, Authority employees in charge of operating parking facilities used for bus, vanpool, carpool and related operations are authorized to enforce the provisions of this subsection.

(g) Whenever any vehicle shall be parked, stopped or allowed to stand upon the Turnpike for any of the reasons prohibited by this chapter, such vehicle shall be removed forthwith from the Turnpike and impounded by the Authority at the owner's expense until all towing and storage costs have been satisfied.

R.1977 d.63, effective March 1, 1977.

See: 9 N.J.R. 56(a), 9 N.J.R. 203(a).

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Amended by R.1994 d.414, effective August 15, 1994.

See: 26 N.J.R. 337(a), 26 N.J.R. 3463(a).

Amended by R.1997 d.82, effective February 18, 1997.

See: 28 N.J.R. 2518(a), 28 N.J.R. 3242(a), 29 N.J.R. 587(a).

Inserted new (b); recodified former (b) as (c); combined former (c) and (d) into new and substantially amended (d); in (f), added exception to two hour parking maximum; deleted (g) and (h); recodified former (i) as (g); and deleted (j).

Case Notes

Action to force utility to comply with backup requirement for overweight shipment of nuclear waste dismissed as moot; "capable of repetition yet evading review" test for decision on moot issue not met. *New Jersey Turnpike Authority v. Jersey Central Power and Light*, 772 F.2d 25 (3rd Cir.1985).

Regulation banning all photography on State turnpike exceeded powers delegated to State Turnpike Authority. *State v. Levinson*, 225 N.J.Super. 135, 541 A.2d 1110 (A.D.1988).

19:9-1.7 Use of medial strip prohibited

The medial strip between the traffic lanes of the Turnpike shall not be used for driving upon any part thereof or for crossing between said lanes by vehicles or by persons on foot. Excepted from the provisions of this section are State Police vehicles, the Authority's maintenance and official vehicles and vehicles authorized to furnish towing and other services to disabled vehicles on the Turnpike, and all other vehicles discharging emergency functions, such as ambulances and fire engines, when they are properly in use in the performance of authorized Turnpike duties, provided that no excepted vehicle shall use the medial strip so as to create a hazard to other vehicles.

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Amended by R.1994 d.414, effective August 15, 1994.

See: 26 N.J.R. 337(a), 26 N.J.R. 3463(a).

19:9-1.8 (Reserved)

Repealed by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Section was "Air raid precautions".

19:9-1.9 Limitations on use of Turnpike

(a) Use of the Turnpike and entry thereon by the following, unless otherwise authorized by the Authority, is prohibited:

1. Pedestrians;
2. Bicycles with or without motors and any other two or three-wheel vehicles, excluding motorcycles;
3. Motorcycles, during high winds or during the prevalence of other adverse weather conditions;
4. Vehicles drawn by animals;
5. Animals led, ridden or driven on the hoof;
6. Vehicles loaded with animals or poultry not properly confined;

7. Vehicles with improperly inflated pneumatic tires; also vehicles with tires in such condition that they are, in the judgment of the Authority, unsafe for use upon the Turnpike;

8. Farm implements and farm machinery, whether self-propelled or towed;

9. Passenger vehicles and passenger vehicle-drawn trailers with improperly secured loads:

- i. Passenger vehicles and passenger vehicle-drawn trailers carrying any load on the top or sides with lateral or horizontal projection in excess of 12 inches from body of vehicle or vertical projection in excess of 24 inches from body of vehicle;

10. Vehicles with metal tires or solid tires worn to metal and vehicles with caterpillar treads;

11. Construction equipment other than motor trucks or truck cranes capable of maintaining 45 miles per hour;

12. Vehicles or combinations of vehicles, including any load thereon, exceeding the following extreme overall dimensions or weights:

i. Height: 13 feet, 6 inches;

ii. Width: 8 feet, 6 inches;

iii. Length: Semitrailer in excess of 53 feet in length when in a tractor-semitrailer combination, private utility, house-type semitrailer or trailer with a length of any single vehicle in excess of 35 feet, private utility, house-type semitrailer and towing vehicle combination in excess of 45 feet and private utility, house-type trailer and towing vehicle combination in excess of 50 feet, except that single recreational vehicles of up to 40 feet in length and combination recreational vehicles of up to 62 feet in length may operate on the Turnpike;

iv. Gross weight: 80,000 pounds;

(1) Single axle: 22,400 pounds;

(2) Tandem axle: 34,000 pounds;

v. Notwithstanding the above limitations, a combination of vehicles designed, built and used to transport other motor vehicles may carry a load which does not exceed 65 feet overall length, including load overhang. The overhang shall be limited to seven feet and may not exceed three feet at the front and four feet at the rear and that the overhang shall be above the height of the average passenger car;

vi. Notwithstanding the above limitations, no vehicle operated with a tandem trailer combination, commonly known as a "double bottom," with overall individual trailer length in excess of 28 feet 6 inches shall be operated on the Turnpike.

13. Except for the Interstate 95 Extension, any vehicle operated pursuant to a special permit issued pursuant to

N.J.S.A. 39:3-84, unless said permit or its equivalent is issued by the Authority;

14. Passenger vehicles or passenger vehicle-drawn trailers being towed by other vehicles, unless both vehicles and the connecting and control devices between them meet the following requirements:

- i. Not more than one vehicle is being towed;
- ii. A hitch bar is used in combination with chain strong enough to hold if the bar became disconnected from either vehicle; and

iii. Brakes, brake lights and directional signals on both vehicles are controlled by the driver of towing vehicle and synchronized. A trailer with a gross weight of 3,000 pounds or less may be operated without brakes if it is towed by a vehicle whose gross weight is at least 2½ times the gross weight of the trailer;

15. Vehicles with loads extending more than four feet:

i. Beyond the rear of the vehicle body or other supporting member; or

ii. Beyond the rear of vehicle-drawn trailer;

16. Vehicles with improperly secured loads;

17. Vehicles so loaded or operated that the contents or any part thereof may be scattered on the Turnpike roadway;

18. Vehicles that are not capable of maintaining a speed of at least 35 miles per hour on a level grade;

19. Vehicles not otherwise specified in this section that create a probable hazard to other vehicles or to persons;

20. During winds or during the prevalence of other adverse weather conditions, house trailers, horse trailers, boat trailers, utility trailers, motorcycles and all passenger vehicle-drawn trailers;

21. Vehicles in tow:

i. With an axle or combination of axles raised off the ground and supported by cable, chains, rope, dollies or other devices, except that Class 1 vehicles in tow with front axle off the ground and supported by dollies with safety chains are permitted to enter and use the Turnpike provided that the brake lights and turn signals of the tow dolly trailering system or towed vehicle are connected to and operating in conjunction with the towing vehicle's lights;

ii. Without axles raised, if interconnected with rope, chains, cable or pipe or tow bars without chains; or

iii. By a fifth wheel crane or hoist mounted on a truck-tractor.

22. Vehicles owned or operated by a member or employee of a diplomatic mission, where said member or employee of the diplomatic mission has been sent prior written notice from the Authority that said member or employee violated any provision of N.J.A.C. 19:9 and who, subsequent to said notice, committed another violation of a provision of N.J.A.C. 19:9. Upon the occurrence of the second violation, said vehicle or vehicles shall be escorted off the Turnpike at the nearest point of exit or interchange;

23. Commercial motor vehicles, trailer and semitrailers including farm trucks, while loaded with hay or straw when the extreme overall dimension is greater than 102 inches in width.

24. Drive-away saddlemount vehicle transporter combinations and drive-away saddlemount with fullmount vehicle transporter combinations, wherein a tractor is hauling additional tractors, as defined at 23 C.F.R. 658.5, exceeding an overall length of 75 feet; and

25. Omnibuses exceeding 45 feet in length, excluding bumpers, and articulated omnibuses exceeding 61 feet in length, excluding bumpers.

(b) In addition to the State Police, toll collection employees of the Authority are authorized to enforce the provisions of this section, and all persons shall comply with the orders of such employees given to prevent the use of the Turnpike by any of the aforesaid prohibited vehicles.

Amended by R.1972 d.37, effective February 25, 1972.

See: 4 N.J.R. 14(b), 4 N.J.R. 56(a).

Amended by R.1973 d.145, effective June 4, 1973.

See: 5 N.J.R. 172(a), 5 N.J.R. 247(d).

Amended by R.1974 d.227, effective January 1, 1975.

See: 6 N.J.R. 209(c), 6 N.J.R. 370(c).

Amended by R.1975 d.25, effective February 7, 1975.

See: 7 N.J.R. 122(d).

Amended by R.1975 d.41, effective February 28, 1975.

See: 7 N.J.R. 77(c), 7 N.J.R. 185(a).

Amended by R.1977 d.63, effective March 1, 1977.

See: 9 N.J.R. 56(a), 9 N.J.R. 203(a).

Amended by R.1978 d.412, effective December 5, 1978.

See: 9 N.J.R. 497(c), 11 N.J.R. 53(b).

Amended by R.1981 d.520, effective January 18, 1982.

See: 13 N.J.R. 751(b), 14 N.J.R. 106(a).

(a)25: new text added for paragraph previously reserved.

Amended by R.1982 d.448, effective December 20, 1982.

See: 14 N.J.R. 1087(a), 14 N.J.R. 1464(c).

Added 26 to (a).

Amended by R. 1983 d.301, effective August 1, 1983.

See: 15 N.J.R. 886(a), 15 N.J.R. 1257(a).

Amended several length requirements.

Amended by R.1984 d.547, effective December 17, 1984.

See: 16 N.J.R. 2517(a), 16 N.J.R. 3458(a).

Deleted language "A red inspection . . . or to persons".

Amended by R.1986 d.271, effective July 7, 1986.

See: 18 N.J.R. 935(a), 18 N.J.R. 1402(b).

(a)12v deleted text "The total . . . front or rear" and substituted "The overhang shall . . . at the rear".

Amended by R.1990 d.32, effective January 16, 1990.

See: 21 N.J.R. 3272(b), 22 N.J.R. 249(a).

Repealed regulation on school bus use of "Out-of-Service" sign pursuant to repeal of pertinent statute, see: P.L. 1989, c.36.

Amended by R.1992 d.211, effective May 18, 1992.

See: 24 N.J.R. 931(a), 24 N.J.R. 1905(c).

Revised (a)12iii.

Amended by R.1993 d.311, effective July 6, 1993.

See: 25 N.J.R. 684(a), 25 N.J.R. 2906(c).

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Amended by R.1994 d.414, effective August 15, 1994.

See: 26 N.J.R. 337(a), 26 N.J.R. 3463(a).

Amended by R.1997 d.455, effective November 3, 1997.

See: 29 N.J.R. 3432(a), 29 N.J.R. 4714(b).

In (a)21i, inserted the exception for Class 1 vehicles in tow.

Amended by R.1998/d.492, effective October 5, 1998.

See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

In (a), inserted "committed another violation of" preceding "a provision" in 22.

Amended by R.1998 d.520, effective November 2, 1998.

See: 30 N.J.R. 2368(a), 30 N.J.R. 3971(a).

In (a), added an exception at the end of 12iii, and rewrote 24.

Case Notes

Action to force utility to comply with backup requirement for overweight shipment of nuclear waste dismissed as moot; "capable of repetition yet evading review" test for decision on moot issue not met. *New Jersey Turnpike Authority v. Jersey Central Power and Light*, 772 F.2d 25 (3rd Cir.1985).

19:9-1.10 Waste and rubbish

(a) Littering of the Turnpike with bottles, cans, papers, garbage or rubbish including tobacco and tobacco products or other materials of any kind or description is prohibited.

(b) The throwing or discarding of any such material from Turnpike structures is also prohibited.

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

19:9-1.11 Loose cargo; discharges

(a) Vehicles carrying material likely to spill that is not otherwise boxed, crated, bagged or packaged must be firmly secured on all sides with a tarpaulin completely covering the material, and capable of preventing the escape of said material.

(b) No material, whether solid, liquid or gaseous, shall be discharged on Turnpike property, whether intentionally or unintentionally. This prohibition shall apply to any material being carried as cargo, whether or not for hire, and to any material that is a part of the vehicle or necessary for the operation of the vehicle or any apparatus affixed thereon, but shall not apply to ordinary vehicular emissions anticipated by the original design of the vehicle or the apparatus affixed thereto.

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

19:9-1.12 Damaging of Turnpike property

(a) No person shall cut, mutilate or remove any trees, shrub or plants located on Turnpike property.

(b) No person shall deface, damage, mutilate or remove any official traffic control device, delineator, structure, fence

or other property or equipment of the Authority or its concessionaires.

(c) No person shall install or attempt to install, construct or place upon any portion of the Turnpike, any item, sign, structure or equipment for any purpose whatsoever, without prior written approval of the Authority.

(d) No material shall be discharged on Turnpike property, whether intentionally or unintentionally, that may cause damage to the Turnpike, the general public, the Authority, its agents and employees, or any real or personal property owned, leased or under the supervision of the Authority. For purposes of this subsection only, "damage" includes any effect which may be injurious to health, safety or welfare, or which may cause financial loss or delay the movement of traffic.

(e) The operator, owner or lessee of any vehicle from which a discharge in violation of any provision of this section or N.J.A.C. 19:9-1.10, 1.11(b) or 1.15 occurs, regardless of the cause of the discharge, shall cooperate fully with the Authority, its employees, agents, and third parties authorized to respond to an emergency, discharge or blockage of traffic by the Authority, the State Police and the Department of Environmental Protection and Energy and shall take any action deemed necessary by them to restore normal traffic conditions and to remove spilled or otherwise discharged material from the Turnpike immediately. The vehicle operated, owned or leased by any person failing to cooperate or take such action as deemed necessary by the official in charge of the scene where the discharge occurred is subject to impoundment by the Authority, the State Police, or the New Jersey Department of Transportation and their agents and employees until such time as all penalties, towing and storage fees and costs have been satisfied.

(f) In addition to any penalties prescribed by this chapter or by the laws and regulations of other government entities including, but not limited to, Titles 2C, 13, 27, 39 and 58 of the New Jersey Statutes and Federal law or regulation, any person violating any provision of this section or N.J.A.C. 19:9-1.10, 1.11(b) or 1.15, shall be liable to the Authority for any and all costs arising out of said violation, including the costs of:

1. Collecting, testing and disposing of the material and restoring the Turnpike to its condition immediately prior to the violation;

2. Replacing or repairing, in the Authority's sole discretion, any property damaged by reason of said violation;

3. Toll and concession revenue lost because of the closing of the Turnpike, any part thereof, or any interchange by reason of said violation;

4. Medical care, supervision or other costs relating to personal injury suffered by the general public, the Authority, its agents or employees; and

5. Any other costs arising out of said violation and incurred by the Authority or third parties.

(g) The Authority may recover the costs under (f) above by way of complaint filed in Superior Court, Law Division or United States District Court, by an administrative consent order executed by an authorized representative of the Department of Environmental Protection and Energy, or by any other lawful means.

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b); 25 N.J.R. 4605(a).

Amended by R.1998 d.492, effective October 5, 1998.

See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

In (a), inserted "property" at the end of the sentence.

19:9-1.13 Hitch-hiking, loitering, soliciting, and distributing prohibited

The soliciting of rides commonly known as "hitch-hiking" or stopping for the purpose of taking on or discharging such passengers at or near toll booths, service areas, and all other portions of the Turnpike is prohibited. Loitering, soliciting funds or services, selling goods or services, or distributing samples or advertising matter of any sort in or about the toll booths, service areas and all other portions of the Turnpike is prohibited unless expressly authorized by the Authority.

Amended by R.1977 d.63 effective March 1, 1977.

See: 9 N.J.R. 56(a), 9 N.J.R. 203(a).

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Amended by R.1997 d.82, effective February 18, 1997.

See: 28 N.J.R. 2518(a), 28 N.J.R. 3242(a), 29 N.J.R. 587(a).

Inserted references to stopping to take on or discharge hitchhikers, selling services, and authorization by the Authority; and substituted "distributing samples or advertising matter of any sort" for "distributing pamphlets and literature".

19:9-1.14 Repairs and towing on the Turnpike and Parkway

(a) Subject to the provisions of N.J.A.C. 19:9-1.6, Parking, standing or stopping on Turnpike prohibited, except in case of emergency, and 19:8-1.8, Parking, standing or stopping on Parkway prohibited, except in emergency, a vehicle that becomes disabled while using the Turnpike or the Garden State Parkway may be repaired by the occupants thereof, provided that the occupants can complete repairs within a two-hour period from the time of disablement and the disabled vehicle does not create a hazardous condition. A vehicle disabled and unattended by its occupants will be removed immediately by an authorized service provider of the Authority at the expense of the owner.

(b) If other mechanical services or towing is required, such services or towing must be performed by a service agency authorized by the Authority to furnish such service on the Turnpike and the Garden State Parkway.

(c) If towed, such disabled vehicles must be removed at the nearest exit in the original direction of travel.

(d) A truck or bus company may obtain a private mechanical and towing service permit for the Turnpike and/or the Garden State Parkway, as appropriate, provided such company conforms to the rules and regulations governing such permits. These permits are obtainable from the Office of the Manager of Emergency Services on the Turnpike and the Roadway Services Administrator on the Parkway. The fee for such permit shall be \$100.00. Such permits shall be renewable on a bi-annual basis.

(e) A truck or bus company may obtain a permit to perform its own tire service on the Turnpike or the Garden State Parkway, as appropriate, or designate a prearranged tire service; such permits are obtainable from the Office of the Manager of Emergency Services on the Turnpike and the Roadway Services Administrator on the Parkway. The fee for such permit shall be \$100.00. Truck or bus companies not holding a private tire service permit may either receive tire service from a service agency authorized by the Authority or be removed by a towing service authorized by the Authority. Such permits shall be renewable on a bi-annual basis.

Amended by R.1977 d.63, effective March 1, 1977.

See: 9 N.J.R. 56(a), 9 N.J.R. 203(a).

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b); 25 N.J.R. 4605(a).

Amended by R.1998 d.492, effective October 5, 1998.

See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

In (d), added a new last sentence; and in (e), substituted "Manager of Emergency Services" for "Director of Operation" and added a new second sentence.

Special amendment, R.2004 d.269, effective June 15, 2004 (to expire January 9, 2005).

See: 36 N.J.R. 3431(a).

Rewrote (a), (b), (d) and (e).

19:9-1.15 Transportation of hazardous materials

(a) The transportation or shipment on the Turnpike of any hazardous materials, as defined in Part 172 of the regulations of the United States Department of Transportation (49 CFR 172), shall be subject to the requirements of parts 171 to 178 inclusive of such regulations (49 CFR 171 to 178) governing the preparation of the materials for transportation, construction of containers, packing, weighing, marking, labeling, billing and certification of such materials.

(b) The transportation or shipment on the Turnpike of radioactive materials or devices, and transportation of Division 1.1, 1.2, 1.3 and 1.4 explosives, as defined in Part 173 of the regulations of the United States Department of Transportation (49 CFR 173), shall be subject to the prior written approval of the Authority. All applications for such approval shall be made in writing addressed to the Director of Operations and shall provide, to the satisfaction of the Authority, that the shipment shall comply in all respects with the provisions of parts 171 to 178 and 397 inclusive of such regulations (49 CFR 171-178, 397). The fee for processing the application for such approval shall be \$50.00. All approvals granted shall be subject to annual renewal.

(c) The Authority reserves the right to withhold the approval required in (b) above, and to prohibit entry to the Turnpike of any carrier of any hazardous materials, despite compliance with the aforementioned regulations of the United States Department of Transportation or any other pertinent regulations or law, if in the Authority's opinion, the transportation or shipment will be likely to endanger life or property.

(d) No person shall transport gasoline or other flammable liquids in containers in private vehicles. Commercial vehicles carrying flammable liquids shall be appropriately labeled.

(e) Any operator, owner or lessee of a vehicle on the Turnpike which contains any hazardous material shall be subject to all provisions and penalties hereunder, in addition to any provisions of the United States Code, the New Jersey Statutes and the New Jersey Administrative Code.

(f) In the event of a discharge of hazardous materials on the Turnpike, all remedial efforts shall be conducted in compliance with these rules and under the supervision of the Authority, the State Police, and/or the Department of Environmental Protection and Energy.

1. Where practicable, not contrary to the rules of the Department of Environmental Protection and Energy, and not contrary to the safety of the operator, the general public, or the Turnpike, the operator, owner or lessee of the vehicle may be afforded the opportunity to contain and remove discharged material using personnel, materials and equipment provided:

i. Aboard the vehicle from which the discharge occurred;

ii. By another vehicle owned or leased by the operator, owner or lessee of the vehicle from which the discharge occurred;

iii. By a specialized response team operated by the manufacturer or distributor of the hazardous material that has been discharged (hereafter, "manufacturers' response team"); or

iv. By third parties contracted to contain, clean up, and/or dispose of the discharge (hereafter, "emergency response contractors") by the operator, owner or lessee of the vehicle specifically for the purpose of remediating hazardous materials discharges from the operator's vehicle.

2. No emergency response services may be provided pursuant to (f)1iii through iv above unless all the entities undertaking such services have provided to the Authority proof of adequate insurance and such other information as may be required by the Director of Operations.

3. The Authority shall make available to any operator, owner or lessee so requesting a list of emergency response contractors that have met the requirements of (f)2 above to perform emergency response services on the Turnpike. The operator, owner or lessee shall arrange and pay for emergency response services to be performed by such contractors. Approval of such contractors pursuant to (f)2 above is not to be considered a warranty or assurance by the Authority of such contractors' ability to perform emergency response services.

4. Whenever the operator, owner or lessee refuses to arrange for an emergency response contractor, or whenever exigent circumstances or the risk posed by the discharge to Turnpike patrons, the general public, or the Authority's agents or employees is too great to await the arrival of the emergency response contractor(s) arranged

by the operator, owner or lessee in the opinion of the Director of Operations or the Director's designee, the Director or the Director's designee may arrange for emergency response services and long-term remedial efforts to be provided by a third party of the Authority's choice. Emergency response and long term remedial services may be performed by or through the Department of Environmental Protection and Energy or its agents, including any county environmental health department, or by private organizations engaged by the Authority. The cost of services pursuant to this paragraph shall be based on the most recent agreement between the Authority and the third party, or if there is no such agreement, shall be based on the schedule of rates normally charged to commercial concerns for emergency response or long-term remedial services, and shall be borne by the operator, owner or lessee of the vehicle.

i. If, at the time the emergency response contractor arrives at the scene of the discharge, the operator, owner or lessee of the vehicle refuses to agree to pay or complete any documents necessary to engage the contractor for such services, the Authority may impound the vehicle and any cargo or contents thereof until such time as the costs of remedial services are satisfied. If such costs are not satisfied within 14 days, the Authority shall have the right to sell the vehicle, its cargo and contents at public auction and/or to recover any unsatisfied costs by filing a civil action in the Superior Court of New Jersey or in any District Court of the United States having jurisdiction over such action.

ii. If the emergency response contractor refuses to contract with the operator, owner or lessee of the vehicle because of a bona fide concern about the operator's, owner's or lessee's ability or willingness to pay for such services, the Director or the Director's designee may authorize such services to be performed at the Authority's expense, and the Authority may thereafter recover the costs thereof from the operator, owner or lessee by filing a civil action in Superior Court of New Jersey or in any District Court of the United States having jurisdiction over such action. The emergency response contractor's concern shall be deemed bona fide if the operator's, owner's or lessee's credit record indicates a history of refusal or failure to pay commercial debts.

Amended by R.1977 d.63, effective March 1, 1977.

See: 9 N.J.R. 56(a), 9 N.J.R. 203(a).

Amended by R.1983 d.263, effective July 5, 1983.

See: 15 N.J.R. 687(b), 15 N.J.R. 1105(c).

In (b), added transportation of Class A, B and C explosives.

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Amended by R.1994 d.414, effective August 15, 1994.

See: 26 N.J.R. 337(a), 26 N.J.R. 3463(a).

Amended by R.1998 d.492, effective October 5, 1998.

See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

In (b), substituted "Manager of Emergency Services" for "Director of Operations" and added a new last sentence.

Amended by R.2003 d.287, effective July 21, 2003.

See: 34 N.J.R. 2207(a), 35 N.J.R. 3392(a).

In (b), substituted "Director of Operations" for "Manager of Emergency Services".

19:9-1.16 Intoxicating beverages

No person shall consume or imbibe any intoxicating beverage from a bottle or container containing liquor, beer, wine or other alcoholic beverage while operating a vehicle on the Turnpike.

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

19:9-1.17 Operation of vehicles on Turnpike projects; care required

No vehicle shall be operated carelessly, without due caution or prudence, or in a manner so as to endanger any person or property, or while the operator is under the influence of intoxicating liquors or any narcotic or habit-forming drug.

Amended by R.1977 d.63, effective March 1, 1977.

See: 9 N.J.R. 56(a), 9 N.J.R. 203(a).

Amended by R.1983 d.555, effective December 5, 1983.

See: 15 N.J.R. 1638(b), 15 N.J.R. 2046(c).

Deleted old (a) and (b).

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Case Notes

State trooper's stop of defendant's vehicle was justified by reasonable suspicion that driver was violating New Jersey's careless driving statute. *U.S. v. Kikumura, C.A.3 (N.J.)1990, 918 F.2d 1084.*

19:9-1.18 Noise limits

(a) No vehicle shall be operated on the Turnpike in violation of 49 C.F.R. 325 or any other noise standards promulgated by the United States or the State of New Jersey and applicable to that class of vehicle.

(b) No vehicle shall be operated on the Turnpike whose exhaust system is:

1. Not equipped with an exhaust chamber, resonator or noise dissipative device;
2. Not in constant operation and properly maintained;
3. Equipped with any cutout, bypass or similar device designed to reduce the effectiveness of noise control devices or to increase noise.

New Rule, R.1974 d.227, effective October 1, 1974.

See: 6 N.J.R. 209(c), 6 N.J.R. 370(c).

Amended by R.1975 d.25, effective February 7, 1975.

See: 7 N.J.R. 122(d).

Amended by R.1983 d.301, effective August 1, 1983.

See: 15 N.J.R. 886(a), 15 N.J.R. 1257(a).

Deleted several sound level limitations from Table 1.

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

19:9-1.19 Tolls; payment required

(a) Except as provided by N.J.S.A. 27:23-40, no vehicle shall be operated on the Turnpike except upon the payment of such tolls as are required by the Turnpike Authority.

(b) Tolls shall be paid by currency, coin, credit card (for commercial account holders) or by means of an electronic toll collection system.

New Rule, R.1977 d.63, effective March 1, 1977.

See: 9 N.J.R. 56(a), 9 N.J.R. 203(a).

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Amended by R.1999 d.65, effective March 1, 1999.

See: 30 N.J.R. 4335(a), 31 N.J.R. 670(a).

Rewrote the section.

19:9-1.20 Records

(a) Any operator of a commercial motor vehicle, omnibus, or tractor in interstate commerce upon the Turnpike shall keep records showing the day and hour when, and the place where, the operator went on and off duty. The operator's records must reflect the current duty status of the operator upon entering the Turnpike.

(b) Records showing the day and hour when, and the place where, the operator went on duty and was not released from duty are not needed, provided:

1. The operator does not operate beyond a 100 air-mile radius of the normal work reporting location;
2. The operator, except a driver salesperson, returns to the work reporting location and is released from work within 12 consecutive hours;
3. At least eight consecutive hours off duty separate each 12 hours on duty;
4. The operator does not exceed 10 hours maximum driving time following eight consecutive hours off duty; and
5. The motor carrier which employs the operator maintains and retains for a period of six months accurate and true time records showing:
 - i. The total number of hours the operator is on duty each day;
 - ii. The time the operator reports for duty each day;
 - iii. The time the operator is released from duty each day; and
 - iv. The total on-duty time for the preceding seven days for operators used for the first time or intermittently.

Amended by R.1977 d.63, effective March 1, 1977.

See: 9 N.J.R. 56(a), 9 N.J.R. 203(a).

Amended by R.1983 d.555, effective December 5, 1983.

See: 15 N.J.R. 1638(b), 15 N.J.R. 2046(c).

Added (b).

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).
 Amended by R.1998 d.520, effective November 2, 1998.
 See: 30 N.J.R. 2368(a), 30 N.J.R. 3971(a).
 Rewrote the section.

19:9-1.21 Other regulations

In addition to these traffic rules, users of the Turnpike are subject to all applicable statutory provisions, including, but not limited to, penalties for nonpayment of tolls (N.J.S.A. 27:23-25), penalties for violation of any of the Authority's regulations (N.J.S.A. 27:23-32), United States Department of Transportation regulations, and, except as otherwise provided hereinabove, the Motor Vehicle and Traffic Acts of New Jersey relating to lights, brakes, weights, registration and other matters (N.J.S.A. 39:3-1 et seq. and 39:4-1 et seq.). Commercial vehicles in interstate commerce using the Turnpike remain subject to Interstate Commerce Commission regulations.

New Rule, R.1993 d.496, effective October 4, 1993.
 See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

19:9-1.22 Filming, photographing or videotaping on the Turnpike prohibited, except as authorized

(a) To insure the health, safety and welfare of motorists, the general public and the Authority, no person shall be permitted to park, stop, stand or travel at a slow speed in violation of N.J.S.A. 27:23-27, for the purpose of taking photographs, videos or motion pictures (hereinafter collectively "film") on the Turnpike, except as provided in (b) below or except as otherwise authorized pursuant to (c) or (d) below.

(b) Notwithstanding (a) above, persons shall be permitted to take film in those portions of the service areas of the Turnpike under the Authority's control which are not used for the moving, servicing or parking of vehicles, provided the taking of such film does not interfere with or obstruct the movement or flow of vehicles and people lawfully on the Turnpike. Such interference or obstruction includes, without limitation, the taking of such film within 100 feet of any ramp or traveled roadway portion of the Turnpike. Persons wishing to engage in professional or commercial filming in the above described areas shall provide the Authority with at least 48 hours prior notice. Persons wishing to take film in those portions of the Turnpike which are not under the control of the Authority, such as the buildings in the service areas which are under lease, shall contact the appropriate party for approval.

(c) The Authority, through its Department of Communications or successor department, may grant a permit to take film on the portions of the Turnpike not specified in (b) above, provided the person(s) requesting such permit submits the following:

1. A written application to the Authority, at least two weeks prior to the date of the filming, stating the date, time and location of the filming, names and addresses of the applicants, the number of individuals and vehicles to

be present at the filming, the purpose of such filming and any other information the Authority may deem necessary in order for it to make a determination that such filming can be conducted without a risk to the safety, traffic security or movement of the Turnpike;

2. Certificates of liability insurance (indicating the New Jersey Turnpike Authority as an insured under the policy) in an amount deemed by the Authority to be acceptable given the nature and scope of the filming;

3. A copy of the motor vehicle insurance policy for each vehicle to be used in the filming; and

4. An indemnification and hold harmless agreement signed by all persons responsible for the filming, in a form provided by or acceptable to the Authority.

(d) The permittee shall comply with any Authority restrictions on the time, place and manner of the filming imposed as a condition of the grant of a permit in order to ensure the safety, traffic security or movement of the Turnpike.

(e) The Authority shall grant such permit in accordance with (c) and (d) above, unless the Authority determines that the time, location or nature of such filming would create a risk to the safety, traffic security or movement of the Turnpike and that such risk cannot be adequately controlled.

(f) In the event that a bona fide representative of the news media requires immediate permission to film an emergency situation on a portion of the Turnpike not specified in (b) above, the Authority shall grant a permit to film over the telephone to the news media representative, provided:

1. The applicant has previously obtained a valid press pass from the Authority;

2. The Authority has determined that such filming would not create an unreasonable risk to the safety, traffic security or movement of the Turnpike; and

3. The applicant agrees to abide by certain time, place and manner restrictions on the filming which may be imposed by the Authority or the State Police to ensure the safety, traffic security or movement of the Turnpike.

New Rule, R.1997 d.82, effective February 18, 1997.
 See: 28 N.J.R. 2518(a), 28 N.J.R. 3242(a), 29 N.J.R. 587(a).

19:9-1.23 Distribution of literature

(a) Literature other than commercial or advertising literature may be distributed at service areas of the Turnpike, which for purposes of this section shall include Park-n-Ride facilities, at the times and places and in accordance with the terms and conditions enumerated in (b) through (l) below.

(b) A person, persons or organization who desires to distribute literature or conduct a survey at or about a service area shall first file an application for a Certification of

Registration. Applicants shall complete the application form (providing identification and distribution specifics) and a waiver and indemnity form supplied by the Authority. Applicants shall also submit a certificate of liability insurance and workers compensation and/or auto insurance, if applicable, in an amount deemed necessary by the Authority, based on the circumstances surrounding the proposed distribution of literature project. Certificates will be issued without charge on a first-come, first serve basis, subject to availability and limitations of space. Certificates shall be issued for not more than one calendar day. Applications may be obtained and submitted and Certificates obtained in person, by mail or by facsimile on weekdays between 9:00 A.M. and 5:00 P.M. from the Manager of Patron Services, New Jersey Turnpike Authority, Administration Building, New Brunswick, New Jersey 08903, (732) 247-0900.

(c) Certificate holders shall distribute literature only at the locations indicated in the Certificate, which locations shall be determined by the Turnpike in order to minimize inconvenience to Turnpike patrons and to ensure patron safety. No more than two persons shall distribute literature during the same period at the same service area.

(d) Certificate holders shall at no time shout, make outcries, use devices for voice or sound amplification or any other instruments or devices for sound production.

(e) Placards or any other literature or material shall not be affixed to any portion of the building or any other structure.

(f) No certificate holder shall use a table or other device unless the Certificate expressly provides for its use in the designated expressive area.

(g) Certificate holders shall not leave material unattended and shall remove the same when the distribution or permissive period ends, whichever occurs earlier. Certificate holders shall at all times keep the area in a reasonably clean, neat and uncluttered condition and shall, when leaving, make certain that the literature has been removed and cleared from the service area.

(h) Certificate holders shall not disrupt or obstruct passage to or from the service buildings or parking areas, nor shall they act in a boisterous and disturbing manner to the traveling public.

(i) If a Certificate holder violates any of the regulations set forth at N.J.A.C. 19:9-1.23, the Authority shall notify the violator to stop the wrongful conduct, correct that condition or leave the area. If the violator does not stop, correct, or leave as ordered, the violator shall be deemed guilty of being a disorderly person pursuant to N.J.S.A. 27:23-32, or N.J.S.A. 27:23-4, or N.J.S.A. 27:23-33, subject to arrest, fine and imprisonment pursuant to applicable law.

(j) The Certificate holder shall assume all liability for any and all damage or injury arising out of or related in any way to the Certificate holder's activity on or about the Turnpike and by accepting the Certificate agrees to release the Authority and its servants, agents and employees from any liability or damages resulting directly or indirectly from the Certificate holder's use or occupancy of the Turnpike in connection with the Certificate.

(k) The Certificate holder shall indemnify and hold harmless the Authority and its servants, agents and employees from any liability or damages, including attorney's fees and costs, caused by, directly or indirectly, the Certificate holder as a result of the holder's activities or actions on the Turnpike.

(l) The Authority shall not be responsible for the views and ideas expressed by a person or organization holding a Certificate. The Certificate holder shall publish this disclaimer on placards or signs used by the Certificate holder, if the use of placards or signs are provided for in the Certificate, and shall also publish this disclaimer on the literature that is distributed. In addition, through signs, public announcements and/or personal communication, the Authority may disclaim responsibility for the views and ideas expressed by the Certificate holder, and/or sponsorship of the Certificate holder's cause.

New Rule, R.1997 d.82, effective February 18, 1997.

See: 28 N.J.R. 2518(a), 28 N.J.R. 3242(a), 29 N.J.R. 587(a).

Amended by R.1998 d.492, effective October 5, 1998.

See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

In (b), inserted "or conduct a survey" following "literature" in the first sentence and updated the telephone number at the end of the last sentence.

19:9-1.24 Lane usage; Interchanges 11 to 14

(a) The left travel lanes of the New Jersey Turnpike's outer roadways from Interchange 11 in the Township of Woodbridge to Interchange 14 in the City of Newark are designated as special reserved lanes for high occupancy vehicles ("HOVs") during certain weekday hours specified below. Such lanes may only be used by vans or cars with a minimum of three persons or more, inclusive of the driver, or by buses or motorcycles regardless of occupancy, during time periods set forth in (a)1 and 2 below. During all other hours, the lanes will be open to all vehicular traffic, with the exception of commercial vehicles as that term is defined in N.J.A.C. 19:9-1.1.

1. Northbound—from 6:00 A.M. to 9:00 A.M., Monday through Friday, from Interchange 11 to Interchange 14.

2. Southbound—from 4:00 P.M. to 7:00 P.M., Monday through Friday, from Interchange 14 to Interchange 11.

(b) Excepted from the provisions of this section are State Police vehicles, the Authority's maintenance and official vehicles and vehicles authorized to furnish towing and other services to disabled vehicles on the Turnpike, when they are properly in use in the performance of authorized Turnpike duties. Also exempt are all other vehicles discharging emergency functions, such as ambulances and fire engines.

(c) The Authority retains discretion to modify or suspend the occupancy requirement and/or hours of operation and permit the closure of the HOV lanes to allow operation as general purpose traffic lanes in emergency circumstances based upon the impact on patron safety, convenience and the orderly flow of traffic.

(d) Enforcement of this section shall be governed by the traffic control provisions set forth in N.J.S.A. 27:23-28 and N.J.A.C. 19:9-1.3.

New Rule, R.1996 d.508, effective November 4, 1996.
See: 28 N.J.R. 2520(a), 28 N.J.R. 3242(b), 28 N.J.R. 4803(a).

SUBCHAPTER 2. PURCHASING AND CONTRACTING

19:9-2.1 General provisions

(a) All contracts of the Authority entered into for the performance of any work, or any purchases or hiring of personal property, services, supplies, equipment or goods, shall be as prescribed in these regulations and procedures. The objective of these regulations is to enable the Authority to accomplish its procurement equitably and expeditiously at the least possible cost. These regulations may be added to or amended by the specific provisions of each bid or proposal specifications or contract documents.

(b) Contracts entered into for the furnishing or performing of services of a professional nature, or for the supplying of any product or the rendering of any service by a public utility, subject to the jurisdiction of the Board of Public Utility Commissioners of the State of New Jersey shall be subject only to N.J.A.C. 19:9-2.12.

(c) Pursuant to P.L. 2003, c.79 (the "Consolidation Legislation"), on July 9, 2003 all of the duties, obligations and powers of the New Jersey Highway Authority were transferred to the New Jersey Turnpike Authority. In accordance with the Consolidation Legislation, uniform procurement regulations (with the exception of towing procurement regulations) are adopted for the newly consolidated New Jersey Turnpike Authority and appear at N.J.A.C. 19:9-2.1 through 2.5, 2.8 and 19:8-5.10.

Amended by R.1982 d.446, effective December 20, 1982.
See: 14 N.J.R. 974(a), 14 N.J.R. 1464(d).

Hearings to be held by the Executive Director instead of the Chief Engineer. Arrangements for the hearing to be made by the Senior Attorney instead of the Chief Engineer.

Amended by R.1998 d.492, effective October 5, 1998.
See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

In (b), substituted "be subject only to N.J.A.C. 19:9-2.12" for "not be subject to these regulations" at the end.

Special amendment, R.2003 d.407, effective September 23, 2003 (to expire January 9, 2005).

See: 35 N.J.R. 4915(a).

Added (c).

19:9-2.2 Purchases for amounts requiring public advertising

(a) Rules concerning advertising and awards of bids:

1. Advertisement for competitive bids shall be placed in an appropriate newspaper or journal, having a large circulation in the State. Such advertisement shall be published not less than seven days preceding the date upon which the proposals are to be received and opened. All advertisements will contain:

- i. A brief description of the supplies, materials, equipment or services to be furnished or performed;
- ii. Notice of the place where proposal forms, specifications, terms and conditions may be obtained; and
- iii. The place, date and time when the sealed bids shall be publicly opened.

2. In addition to advertising, bids may be solicited from all known interested parties by mail. Such solicitations shall provide prospective bidders with at least the same information contained in the public advertisement.

3. In the event that amendment of any pertinent information supplied to prospective bidders becomes necessary, notice of the change(s) shall be given to all prospective bidders having requested specifications at least three days prior to the opening of the bids. If such notice is given orally, it shall be promptly confirmed by written addendum.

(b) Rules concerning terms and conditions applicable to submission of bids:

1. All bids must be properly signed and executed.
2. Any correction of an entry made on the proposal form should be initialed by a duly authorized representative of the bidder.
3. Bidders may withdraw bids, or withdraw and resubmit bids, at any time up to 15 minutes prior to the public opening, signed by a duly authorized representative of the bidding firm. Bids so withdrawn shall be returned to the bidders unopened.
4. In the case of inconsistencies or errors in unit prices, extensions and totals, the Authority shall have sole discretion to make determinations with regard to same. If the total price is found to be incorrectly computed, discrepancies will be corrected by the Authority on the basis of the written unit prices, and determination of the low bidder will be made on the basis of the correct total price so determined. The Authority shall not be liable for any failure or error in determining or correcting errors or discrepancies.
5. In particular cases where permitted or required by the Authority in the particular bid specifications, bidders may be permitted to submit partial bids. The Authority

reserves the right to accept any item or group of items of any bid.

(c) Rules concerning receipt, opening, and award of bids:

1. All bids solicited by advertising or by mail must be submitted in sealed envelopes provided by the Authority on the appropriately signed proposal forms furnished by the Authority on or before the time fixed for the public opening. Any bids received after the bidding has been closed shall be returned to the bidder unopened.

2. The purchasing or bid supervisor shall maintain a secured place for the purpose of receipt and securing bids. When sealed envelopes containing bids are received in the office of the Authority they shall be date-stamped and deposited (unopened) in the appropriate secure location.

3. Bids shall be opened publicly at the time and place designated in the Invitation for Bids or Advertisement for Proposals. The amount of each bid, the identity of each bidder, and such other information relevant to the bid shall be recorded in writing and the bid tabulation shall be open to public inspection.

4. Bids shall be evaluated based on the requirements set forth in the Invitation for Bids or contract documents, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose.

5. Correction or withdrawal of inadvertently erroneous bids after opening, or cancellation of awards or contracts based on such mistakes, may be permitted in the sole discretion and determination of the Authority. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the Authority or fair competition shall be permitted and a decision to permit the correction or withdrawal of bids, or to cancel awards or contracts, based on bid mistakes, shall be supported by a written determination made by the Director of Administrative Services and Technology or the Chief Engineer.

6. The contract shall be awarded with reasonable promptness by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids or other contract documents. In the event that bid prices submitted by two or more low responsible bidders are identical and the criteria in the Invitation for Bids or contract documents do not resolve the tie bid, the tie low bids shall be broken by the toss of a coin. If practical, the interested bidders may be invited to the Authority to participate in the coin tossing. Such tie breaking shall be noted on the Bid Summary. The Authority retains the right to reject any or all bids, to waive informalities and minor irregularities, and to rebid the entire contract.

7. When it is determined impractical to initially prepare a purchase description to support an award based on price, an Invitation for Bids or Advertisement for Proposals may be issued requesting the submission of unpriced proposals to be followed by an Invitation for Bids or Advertisement for Proposals limited to those bidders whose unpriced proposals have been determined as qualified for the project by the Director of Administrative Services and Technology or the Chief Engineer.

8. Bid or proposal guarantees on bid or proposal bonds may be required in such form and amount as deemed necessary by the Director of Technology and Administrative Services or Chief Engineer to guarantee the amount of the bid. In that event, the requirement of a bid or proposal guarantee or bond, and the form and amount thereof shall be set forth or specified in the bid specifications.

9. Performance bonds, contract bonds or consents of surety may be required in such form and amount as deemed necessary by the Director of Administrative Services and Technology or Chief Engineer to insure faithful performance of the contract or for the payment of persons performing work on the project. In that event, the requirement of a performance or contract bond or consent of surety, and the form and amount thereof shall be set forth or specified in the bid specifications. The bond shall be submitted by the successful bidder upon notification.

(d) Rules concerning dispensing with public bid procedure:

1. A contract may be awarded for a supply, service, or product without competitive sealed proposals when the Authority upon written recommendation of the Director of Technology and Administrative Services or the Chief Engineer or Director of Maintenance determines and acts by appropriate resolution that there is only one source for the required supply, service or product.

2. When the Authority deems that there exists threat to the health, welfare or safety of the public or of property under emergency conditions, or the exigency of the situation does not allow sufficient time to advertise and award bids by public bidding, the Authority may, by appropriate resolution, acting on the written recommendation of the Director of Technology and Administrative Services or Chief Engineer or Director of Maintenance, waive the requirement of public bidding provided that such emergency requirements shall be made with such competition as is practicable under the circumstances.

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Amended by R.1998 d.492, effective October 5, 1998.

See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

In (c), rewrote 6 and 8; and in (d), inserted references to the Director of Maintenance throughout.

19:9-2.3 Purchases under amount requiring public advertising

(a) In the case of purchases of personal property or services, where the aggregate cost or amount involved is less than the minimum amount for which public advertising for bids is required, competitive bidding is not required. As determined in the discretion of the Director of Administrative Services and Technology or Chief Engineer, price quotations may be solicited from vendors to the extent determined appropriate by the Director of Administrative Services and Technology or Chief Engineer.

(b) Awards of bids may be to other than the lowest bidder for valid reasons, if specifically recommended by the Director of Administrative Services and Technology or Chief Engineer.

Amended by R.1993 d.496, effective October 4, 1993.
See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

19:9-2.4 Termination of contract

A contract awarded to the successful bidder may be terminated by the Authority at any time for inadequate or improper performance, or for breach of any terms, conditions, or obligations of the contract, as determined by the Authority, or if the vendor shall make an assignment for the benefit of creditors, or file a voluntary petition in bankruptcy, or if an involuntary petition in bankruptcy is filed against the vendor and the act of bankruptcy therein alleged is not denied by the vendor. Upon termination, the Authority shall be liable only for payment of goods or services properly performed in accordance with the contract. The Authority shall have the right to purchase non-delivered goods to replace defective goods and services on the open market and hold the vendor liable for the difference between the price set forth in the contract for such goods or services and the prices paid on the open market. Further, the Authority reserves the right to terminate any contract entered into provided written notice has been given to the contractor at least 15 days prior to such proposed termination date. In addition, the Authority shall have the right, without the necessity of court proceedings, to recover all equipment, material or supplies that are the property of the Authority and have been entrusted with the vendor to be used in the performance of said contract. Nothing in this section is intended to limit the Authority's right to legally pursue all costs which exceed the amount due and owing the vendor under said contract. The list of remedies in this section is not exclusive.

Amended by R.1993 d.496, effective October 4, 1993.
See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

19:9-2.5 Purchases under or in combination with State or other agency contracts

(a) When it is determined to be proper and in the best interest of the Authority, the Authority may purchase equipment, goods, materials and supplies directly, without adver-

tising, from vendors who hold contracts with the State of New Jersey or other State or multi-state authorities or agencies of the State of New Jersey. In such cases, the purchases shall not be subject to Authority approval.

(b) When it is determined to be proper and in the best interests of the Authority, the Authority may contract with and purchase by public bid procedure, services, equipment, goods, materials and supplies, in combination with the requirements of the State of New Jersey or other State or multi-state authorities or agencies.

(c) In either event, the Director of Administrative Services and Technology or Chief Engineer will submit a written recommendation to the Authority which shall set forth the details of the proposed acquisition and shall state the reasons for proceeding under or in combination with such State or other State authority contract or requirements.

(d) When it is determined to be proper and in the best interest of the Authority, the Authority may determine, by public bid procedure, the best price for the purchase of equipment, goods, materials and supplies. If that price is lower than the price that the State of New Jersey or other State or multi-state authorities or agencies of the State of New Jersey have obtained through public bidding, the Authority may separately award such contract. If it is determined that the price by public bid procedure is not lower than that obtained through a public bid process by the State of New Jersey or other State or multi-state authorities or agencies, the Authority may contract with the vendors holding contracts with these entities.

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Amended by R.1998 d.492, effective October 5, 1998.

See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

In (a), inserted "of the State of New Jersey" at the end; and added a new (d).

Special amendment, R.2003 d.407, effective September 23, 2003 (to expire January 9, 2005).

See: 35 N.J.R. 4915(a).

In (a), at the end of the paragraph inserted "In such cases, the purchases shall not be subject to Authority approval."

Case Notes

Members of consortium of public agencies in charge of state toll roads and interstate toll connections were not ultra vires in bidding out contract for integrated electronic toll collection system; each agency was authorized to take such action. *Nachtigall v. New Jersey Turnpike Authority*, 302 N.J.Super. 123, 694 A. 1057 (N.J.Super.A.D. 1997).

19:9-2.6 Sale of surplus personal property

(a) Sales of surplus personal property, where the anticipated aggregate proceeds are estimated by the Director of Technology and Administrative Services or exceed the minimum amount requiring public advertising of purchases, shall be made after public advertisement and competitive bids. The advertising and bid procedures shall be basically as set forth in N.J.A.C. 19:9-2.2(a), (b) and (c). The Authority

may by resolution waive the requirement of public advertising on a particular sale.

(b) In the case of sales of surplus property, where the anticipated aggregate proceeds are estimated by the Director of Technology and Administrative Services to be less than the minimum amount requiring public advertising of purchases, competitive bidding is not required. As determined in the discretion of the Director of Technology and Administrative Services, price quotations may be solicited from vendors to the extent determined appropriate by the Director of Technology and Administrative Services.

(c) Award of the sale will be made to the highest bidder meeting the terms and conditions of the bid.

(d) In the event no bids, or inadequate low bids, in the determination of the Director of Technology and Administrative Services, are received, the Director of Technology and Administrative Services may in his or her discretion reject all bids, reoffer for sale, negotiate, trade-in or scrap the sale items.

(e) Upon determination by the Director of Technology and Administrative Services, surplus personal property or equipment may be sold in conjunction with or as part of an auction or sale proceeding conducted by the State of New Jersey or other State authorities.

Amended by R.1993 d.496, effective October 4, 1993.
See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).
Amended by R.1998 d.492, effective October 5, 1998.
See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

19:9-2.7 Procedure for prequalification and award of construction contracts

(a) All prospective bidders for construction in excess of \$50,000 shall be prequalified annually into classifications by the Chief Engineer. Prospective bidders will be classified according to the type of work and the amount of work on which they are entitled to bid as set out in the schedule of classifications set forth at Appendix A to this chapter, incorporated herein by reference. Proposals submitted by prequalified bidders who have received classification ratings as set forth in Appendix A within 10 percent of the total price of the proposal will be considered for award by the Authority. The Chief Engineer may, from time to time, add additional specialized work categories to the schedule of classifications.

(b) In order to prequalify in classification, prospective bidders shall submit annually or at least 21 calendar days prior to bid opening of a specific contract, proof of the following:

1. As to type of work, recent satisfactory experience as a contractor on a contract involving substantially the same or similar work to the classification being sought;

2. As to amount of work, recent satisfactory experience as a contractor on a single contract having a value of at least 60 percent of the maximum limit of the classification rating being sought; several contracts performed at or about the same time having a cumulative value of at least 60 percent of the said maximum limit;

3. Satisfactory financial condition of the prospective bidder;

4. Adequate facilities, including plant, equipment and experience of key personnel and officers of the prospective bidder;

5. That the bidder is not now, nor has been involved, directly or indirectly, in any proceeding, conduct or activity relating to, or reflecting upon, the moral integrity of the bidder by means of sworn affidavit; and

6. A Contractor's Qualifying Statement showing the prospective bidder's status at the end of the month prior to the date of the statement. When submitting a proposal, prequalified bidders may not submit another Qualifying Statement but will instead submit a prequalification recapitulation in such form as may be prescribed by the Authority.

(c) The Chief Engineer shall review the statement and other information submitted by the prospective bidder and shall notify the prospective bidder of the decision as to their classification by certified mail. The classification will be valid for a period of one year from the date of the Chief Engineer's decision, and the prospective bidder will be allowed to bid on all Authority contracts within its classification limits for this one year period without the need of additional prequalification, subject to subsections (d) and (g) below. At the end of this one year period, the prequalification of the bidder will expire, and to be renewed, the prospective bidder must meet the requirement of (b) above.

(d) The Chief Engineer shall reserve the right to require a prospective bidder to submit such additional evidence of qualifications as deemed necessary, and shall consider any evidence available of the financial, technical, and other qualifications and ability of the bidder. The Chief Engineer may change or revoke at any time the classifications of any bidder upon any evidence that said bidder does not meet the financial, technical, moral or other qualifications of the classification.

(e) The Chief Engineer may deny prequalification of any bidder who fails to comply with the provisions of subsection (b) above and, further, may recommend to the Authority rejection of any bid where the bidder, at such time, has failed to comply with the provisions of this section.

(f) The Authority reserves the right to waive the prequalification procedures and requirements in contracting in an emergency situation.

(g) A bidder may be disqualified from future bidding on any Authority project if such bidder claims, whether successfully or not, its right to withdraw its bid because of a unilateral mistake. Such disqualification may be effective for a period of up to six months from the date of opening the bid sought to be withdrawn. Only in cases where the withdrawing bidder did not act in a commercially reasonable manner would the Authority choose to disqualify the bidder, unless the bidder previously sought to withdraw a bid within the 12 months preceding the date of opening the bid sought to be withdrawn, in which event the bidder may be disqualified regardless of whether the second mistake was commercially reasonable.

(h) Bidders on all other contracts not requiring prequalification shall, however, comply with the provisions of subsections (b)3, 4 and 5 above.

Amended by R.1984 d.447, effective October 1, 1984.

See: 16 N.J.R. 2075(a), 16 N.J.R. 2689(b).

(b): "seven working days" changed to "21 calendar days".

Amended by R.1993 d.326, effective July 6, 1993.

See: 25 N.J.R. 62(b), 25 N.J.R. 2906(d).

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Amended by R.1998 d.492, effective October 5, 1998.

See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

In (g), substituted "disqualification" for "qualification" in the second sentence.

19:9-2.8 Procedure to resolve protested solicitations and awards

(a) Any actual or prospective bidder, offeror or contractor who is aggrieved in connection with the solicitation or award of a contract or its prequalification status or classification may protest to the Authority. The protest shall be submitted in writing within five business days after such aggrieved person knows or should have known of the facts giving rise thereto. Failure to file a timely protest shall bar any further action. The written protest shall set forth in detail the facts upon which the protestant bases its protest.

(b) Upon the filing of a timely protest, the Authority's Executive Director or his or her designee shall have the authority to conduct a hearing, to settle and resolve a protest of an aggrieved bidder, offeror or contractor concerning the solicitation or award of a contract or its prequalification status or classification, with the Executive Director retaining authority for the final decision of the Authority. This authority shall be exercised in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(c) If the protest is not resolved by mutual agreement, the Executive Director shall promptly issue a decision in writing. The decision shall state the determination made and reasons for the action taken. The decision shall be mailed or furnished promptly to the protestant and any other interested party.

(d) A decision under subsection (c) above shall be final and conclusive, unless any person adversely affected by the decision commences an action in court.

(e) In the event of a timely protest under (a) above, the Authority shall not proceed further with the solicitation, or with the award of the contract until the decision is rendered under subsection (c) above, or until the Executive Director after consultation with the Director of Administrative Services and Technology or Chief Engineer makes a written determination that the continued solicitation or award of the contract without delay is necessary to protect the interests of the Authority or the public.

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Amended by R.1998 d.492, effective October 5, 1998.

See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

In (b), inserted "or his or her designee" following "Director" and "with the Executive Director retaining authority for the final decision of the Authority" at the end of the first sentence.

19:9-2.9 Licenses to cross

(a) A license to cross is a formal agreement with the Authority granting permission of any nature or description to enter upon or access any Turnpike property. This normally pertains to public and private utilities which must occupy the Turnpike right-of-way in order to provide service

to the public. In addition, licenses to cross are utilized by adjacent property owners to the Turnpike roadway that must utilize the Turnpike property for drainage, egress and access purposes. Before seeking a license to cross, applicants are strongly advised to first consult with the Authority's Chief Engineer to ascertain what information will be required as part of the application and to meet with representatives of appropriate departments of the Authority. Said consultation may be arranged in the discretion of the Chief Engineer upon the applicant's request.

(b) In order to apply for a license to cross, an original and eight copies of a letter containing the location of the Turnpike property affected, the purpose of the crossing and such other information as may be required by the Authority, along with eight copies of the engineering plans with each set of plans affixed to each copy of the letter in such form as may be required by the Authority shall be submitted to:

Chief Engineer
New Jersey Turnpike Authority
PO Box 1121
New Brunswick, New Jersey 08903

(c) A license to cross shall be evaluated based on the following:

1. Adherence to the New Jersey Turnpike Authority Standard Specifications, as amended and supplemented;
2. The impact on the traveling public and Turnpike property;
3. The duration of the request;
4. The criteria contained in N.J.S.A. 27:23-1 et seq., in particular, the provisions of N.J.S.A. 27:23-9, which must be taken into consideration concerning utilization of Turnpike property for certain purposes;
5. The general concern exhibited by the applicant for the public health, safety and welfare;
6. The financial health and stability of the applicant; and
7. The effect of the proposed crossing on the financial, economic or engineering aspects of the activities of the Authority, the public or neighboring property owners.

(d) Competing applications will be assessed based upon (a) through (c) above. The award will be based on the application which most closely serves the needs of the Authority and the public.

(e) An application can be rejected based on a violation of, or non-compliance with, any of the requirements of this rule. Competing applications will be addressed based on the requirements of this rule. Appeals of rejected applications will be addressed using the procedure outlined in N.J.A.C. 19:9-2.10.

New Rule, R.1991 d.224, effective May 6, 1991.

See: 23 N.J.R. 3324(a), 23 N.J.R. 1454(a).

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Amended by R.1998 d.492, effective October 5, 1998.

See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

Rewrote (a); and in (b), changed the required number of copies from 11 and 12 to eight, inserted "with each set of plans affixed to each copy of the letter" and updated the mailing address.

19:9-2.10 Procedure to resolve protested applications for, and awards of, licenses to cross

(a) Any actual or prospective applicant for a license to cross on any Authority property or facility who is aggrieved in connection with the application for and/or award of such a license, may protest to the Authority. The protest shall be submitted in writing to the Director of Law within five business days after such aggrieved party knows or should have known of the facts giving rise to the grievance. Failure to file a timely protest shall bar any further action. The written protest shall set forth in detail the facts upon which the aggrieved applicant bases its protest and shall define, as clearly as the available information permits, those issues or facts in dispute.

(b) Upon the filing of a timely protest, the Authority's Executive Director shall have the authority to conduct a hearing, to settle and resolve a protest of an aggrieved applicant, or prospective applicant, concerning the application for, or award of, a license to cross. This authority shall be exercised in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

(c) If the protest is not resolved by mutual agreement, the Executive Directors shall promptly issue a decision in writing. The Executive Director's decision shall state the determination made and the reasons for the action taken. The Executive Director's decision shall be mailed or furnished promptly to the aggrieved applicant and any other interested party. The members of the Authority shall review the decision of the Executive Director and shall adopt, review or modify the decision of the Executive Director within 45 days of said decision.

(d) A decision rendered pursuant to (c) above shall be final and conclusive, unless any person adversely affected by the decision commences an action in court.

(e) In the event of a timely protest under (a) above, the Authority shall not proceed further with the application for, or with the award of, the license to cross in issue until the decision is rendered pursuant to (c) above.

New Rule, R.1991 d.224, effective May 6, 1991.

See: 23 N.J.R. 3324(a), 23 N.J.R. 1454(a).

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

19:9-2.11 License to cross fee schedule

(a) The fees contained in this section shall apply for all licenses to cross. The Authority reserves the right to waive or reduce the fees in this section. The Executive Director or his or her delegate, upon written request for waiver or reduction of these fees, may waive or reduce the fees upon his or her determination that such waiver or reduction is warranted based on the nature and scope of the project and the justification for waiver or reduction presented in the written request. The determination of the Authority regarding waiver and/or reduction of fees shall be in the sole discretion of the Authority and shall not be subject to appeal. Fees for licenses to cross are exclusive of fair rent for the use of Authority property, which the Authority may assess from time to time on a case-by-case basis. All fees which are required to be submitted in connection with licenses to cross shall be by certified or cashiers check or money order made payable to "The New Jersey Turnpike Authority" and sent to the Department of Finance and Budgets with a reference to the license to cross, at the New Jersey Turnpike Authority, PO Box 1121, New Brunswick, New Jersey 08903.

(b) A \$900.00 application fee shall be submitted along with the completed permit application and associated documents. Such fee shall be non-refundable, whether the Authority's final decision is to issue or deny the required permit. The application fee shall be renewed, and another \$900.00 application fee shall be paid, if there is a six month period of application inactivity caused by the applicant. A period of inactivity shall be defined as the time lapsed between written correspondence regarding the application.

(c) The applicant shall submit a detailed schedule showing the sequence of different construction activities proposed with a breakdown of the number of days of work required per activity. Based on a review of the schedule, the Authority shall determine the construction inspection fee, based on its estimated cost of construction inspection. The applicant shall remit the construction inspection fee to the Authority before the commencement of any construction activities. The Authority shall deposit the funds into an escrow account. If the applicant does not go forward with construction, the Authority shall refund to the applicant the inspection fee less a \$50.00 charge for processing the refund. If, during the course of work, the Authority deems that the actual cost of inspection will surpass the construction inspection fee initially charged, the licensee shall remit to the Authority the additional monies for deposit in the escrow account. The licensee shall submit the additional funds within 15 days of receipt of notice to supplement escrow from the Authority. The principal amount of escrow remaining in the escrow account at the conclusion of all construction activities and after receipt by the Authority of as-built drawings shall be refunded to the licensee.

(d) The licensee shall pay for traffic protection costs incurred by the Authority as follows:

1. Right lane closing	\$2,550.00 per set up
2. Left lane closing	\$2,550.00 per set up
3. Center lane closing	\$2,850.00 per set up
4. Shoulder closing	\$275.00 per set up
5. One-half width ramp closing	\$275.00 per set up
6. Slowdowns (traffic stoppages)	\$50.00 per slowdown
7. Escorts	\$50.00 per escort
8. Supplemental patrols	\$60.00 per hour
9. Two lane closing	\$2,250.00 per set up
10. Oklahoma Weave	\$5,300.00 per set up
11. North to South Inner Roadway Barrel Closing (NSI)	\$1,700.00 per set up
12. South to North Inner Roadway Barrel Closing (SNI)	\$950.00 per set up
13. North to South Outer Roadway Barrel Closing (NSO)	\$1,150.00 per set up
14. South to North Outer Roadway Barrel Closing (SNO)	\$950.00 per set up
15. Special State Police Details	\$50.00 per hour

(e) In the event a more elaborate traffic control scheme than set forth under (d) above is necessitated by a license to cross, the licensee shall pay for traffic protection and personnel costs, as necessary, in accordance with an estimate derived by the Operations Department.

(f) The Authority shall provide to the licensee a list of anticipated closings, slowdowns, escorts and supplemental patrols required for the project. The licensee shall provide a check in the amount of the total anticipated traffic projection cost in accordance with the rates in (d) and (e) above. The Authority will deposit the funds into the escrow account. If all of the funds are expended before the end of the project, or if it is anticipated that additional funds will be necessary before the funds are expended, the licensee shall provide additional funds based upon an updated list of anticipated closings, slowdowns, escorts and supplemental patrols to cover the anticipated traffic protection costs until the end of the project. The licensee shall remit the additional funds within 15 days of receipt of notice to supplement escrow from the Authority. The principal amount of escrow remaining in the escrow account for traffic protection at the conclusion of the project and after receipt of as-built drawings shall be refunded to the licensee.

(g) The Authority reserves the right to make emergency repairs when, in the sole discretion of the Authority, such repairs are necessary to protect Turnpike property or patrons thereon. The costs incurred by the Authority in performing any emergency repairs shall be chargeable to the licensee and shall be deducted from the licensee's escrow account. Any funds deducted by the Authority for emergency repairs shall be replaced by the licensee within 15 days of receipt of a notice from the Authority to supplement escrow.

(h) Amendments or addenda to licenses to cross shall be granted, at the discretion of the Authority, in accordance with N.J.A.C. 19:9-2.9(c), to parties wishing to enter Turnpike property for the purpose of altering or adding to existing facilities for which a license to cross was previously

granted. The same fees listed in this section for licenses to cross shall apply to amendments and addenda to licenses to cross.

(i) All licenses to cross will be granted with a completion date to be proposed by the applicant, subject to approval by the Authority. Should the applicant fail to complete the licensed activity by the deadline, he or she must apply in writing for a time extension. The applicant will be charged a \$300.00 non-refundable fee for each time extension.

(j) Unauthorized work shall include all work performed on New Jersey Turnpike Authority property without the appropriate license or permit. Parties performing unauthorized work shall be charged for any costs incurred by the Authority as a result of such unauthorized work, plus a \$200.00 fine, and shall be required to submit an application for the appropriate license and/or permit and to pay all fees under this section. All unauthorized work shall cease until the appropriate license and/or permit is issued by the New Jersey Turnpike Authority. The Authority will inspect the unauthorized work, and the responsible party shall reimburse the Authority for costs incurred in the inspection of the unauthorized work. If, after inspecting the unauthorized work, the Authority determines that there should be repairs, or modifications to, or removal of, the unauthorized work, the Authority shall notify the person who performed the unauthorized work forthwith, and the repairs, modifications or removal of unauthorized work shall be made by such person at its own cost. If such person refuses to remove, repair or modify the unauthorized work, the Authority may, in its sole discretion, remove the unauthorized work and charge the responsible party for the costs incurred in such removal.

New Rule, R.1997 d.59, effective February 3, 1997.

See: 28 N.J.R. 4864(a), 29 N.J.R. 479(a).

Amended by R.1998 d.492, effective October 5, 1998.

See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

Rewrote the section.

19:9-2.12 Procedure for prequalification and award of contracts for architectural, engineering and land surveying services

(a) This section shall apply to contracts for architectural, engineering and land surveying services in excess of \$25,000. The Authority may choose to apply this section to contracts below \$25,000 in its sole discretion. The Authority may use procurement processes other than those prescribed in this section if those processes have been approved by the Federal government or other State statute; or if an emergency has been declared by the Executive Director of the Authority. Where a procurement involves the proposed use of Federal funds, and Federal law, regulations or guidelines require a procurement procedure other than those prescribed in this section, the Authority shall follow the Federal procedures. All procedures provided for herein that are consistent with Federal requirements shall be followed.

(b) The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

“Complex projects” means projects other than “simple projects,” and includes most projects involving transportation, planning or complex design, or any project having an estimated fee over \$1,000,000.

“Director” means either the Chief Engineer or Director of Maintenance, depending on whether the contract emanates from the Engineering Department or the Maintenance Department.

“EOI” means an expression of interest from firms interested in performing professional architectural, engineering and land surveying services for the Authority.

“Firm” means any individual, firm, partnership, corporation, association or other legal entity permitted by law to provide professional architectural, engineering or land surveying services in this State.

“Professional architectural, engineering and land surveying services” means those services, including planning, environmental and construction inspection services required for the development and construction of projects, within the scope of the practice of architecture, professional engineering or professional land surveying as defined by the laws of this State or those services performed by an architect, professional engineer or professional land surveyor in connection with his or her professional employment practice, and which are subject to N.J.S.A. 52:34-9.1 et seq.

“Review committee” means the committee assigned to review a contract for professional architectural, engineering and land surveying services, which shall include at least three persons designated by the Executive Director in consultation with the Director.

“Simple projects” means projects or other engineering services where the scope can be clearly defined and is not likely to change during the course of the project where the estimated fee is \$1,000,000 or less. Simple projects include, but are not limited to, bridge inspection projects, supervision of construction projects and highway and bridge design projects with an estimated fee of \$1,000,000 or less.

(c) Professional services prequalification requirements shall be as follows:

1. A firm interested in a contract for professional architectural, engineering, or land surveying services shall complete and file a “Professional Service Prequalification Questionnaire” (“PSPQ”) with the Authority. Firms qualified for a particular type of project based on the Authority’s evaluation of the PSPQs will be eligible for consideration when such projects are being contracted for by the Authority without having to present their qualifications on a project-specific basis.

2. For the procurement of general consultants, rather than a project-specific procurement, the procedures relating to prequalification of firms may be modified to address the needs and requirements of the Authority.

3. Each firm shall identify on the PSPQ form each type of work for which the firm desires prequalification. All PSPQ forms shall contain the following information:

- i. Current and past projects undertaken by the firm;
- ii. The nature of services provided on each project;
- iii. The qualifications of the professionals employed by the firm; and
- iv. Other information which the Authority may determine necessary to assess the firm’s qualifications.

4. A firm shall notify the Authority in writing of any substantial change in the information on its PSPQ form when such change occurs. A firm shall have a current PSPQ on file with the Authority at the time of advertisement of the EOI in order to be considered for a project. For purposes of this section, a current PSPQ is one which has been on file with the Authority for no more than 24 months.

(d) Expression of interest (EOI) solicitation and/or advertisement shall be as follows:

1. An advertisement for EOIs shall be placed in an appropriate newspaper or journal, having a large circulation in the State and/or advertised on the Authority’s internet website, www.state.nj.us/turnpike, or through other electronic means. Such advertisements shall be placed not less than seven days preceding the date upon which the EOIs are to be received. The EOI solicitation shall identify the scope of services required from the prequalified firms and the evaluation process to be used for the project. When the Authority seeks to engage more than one firm through a single solicitation of EOIs, the number of firms that the Authority intends to engage shall be identified in the advertisement/ solicitation of EOIs.

2. When general consultant services are needed, the Authority shall establish a list of criteria that firms must meet in order to be sent an EOI for the general consultant contract. Firms that meet such criteria shall be sent an EOI.

(e) Evaluation of EOIs shall be as follows:

1. Upon receipt of the EOIs, the Authority shall review the EOIs for completeness and shall reject those EOIs which are incomplete. The Authority shall notify all firms whose EOIs are determined to be incomplete in writing. For all projects, if fewer than three EOIs are deemed complete, the EOI solicitation may be rewritten and/or re-solicited, or the procurement may continue with less than three firms, as determined by the Executive Director, in consultation with the Director.

2. For simple projects, the technical evaluation process shall consist of the evaluation of EOIs in accordance with the procedures set forth in this section. If three or more EOIs for a simple project are deemed complete, the EOIs shall be evaluated by a review committee.

3. For complex projects, the evaluation of EOIs shall serve as a method by which to create a list of firms that shall receive the requests for proposals ("RFP") for the project. If only three or four EOIs have been deemed complete by the Authority, these firms shall receive the RFP and the Review Committee will not conduct an evaluation of the EOIs as set forth below. If more than four EOIs have been deemed complete, the EOIs shall be submitted to the Review Committee for review as set forth in (e)4 below.

4. The EOIs shall be ranked by the Review Committee on the basis of numerical scores resulting from weighted rating factors. These factors will be weighted in proportion to their relative importance on a project-by-project basis. The relative weight attributed to each rating factor for a particular project and the ranking methodology shall be set forth in the EOI solicitation. In ranking the EOIs, the Review Committee will consider criteria contained in the advertisement for the EOI, which may include:

- i. Understanding of project and Authority needs;
- ii. Approach to the project;
- iii. Experience on similar projects;
- iv. Credentials of the consultant's project team;
- v. Commitment to quality management;
- vi. Extent of New Jersey presence, including location of project office;
- vii. Attainment of Minority Business Enterprise and Women Business Enterprise goals;
- viii. Outstanding work with the Authority; and
- ix. Any other factors specified in the Authority's EOI solicitation.

5. For simple projects, once the review committee has ranked the EOIs, it shall require the top three or more technically ranked firms, which number of firms shall be at the discretion of the Authority, to provide their proposed fees in a separate envelope. The firms shall not be told of their ranking position at this time. The selection process shall continue in the manner described in (g) below. If a particular simple project warrants, the Director may elect to issue an RFP and the contract shall proceed in accordance with the process for complex projects.

6. For complex projects, after the evaluation and ranking of the EOIs, no fewer than the top three ranked

firms shall receive an RFP. All firms that are not to receive the RFP shall be notified in writing.

7. When the Authority is seeking to engage more than one firm through a single solicitation of EOIs, following the Review Committee's evaluation of the EOIs, it shall prepare a list of a sufficient number of technically qualified firms to enable the Authority to engage the number of firms identified in the request for EOIs. If the Review Committee is unable to prepare a list of technically qualified firms in a sufficient number to negotiate with and engage the number of firms identified in the request for EOIs, the Authority shall reduce the number of firms it is seeking to engage through the EOI, and/or re-solicit the EOI in whole or in part. The Review Committee shall negotiate a contract with firms in the same manner as other projects.

(f) Requests for Proposals (RFPs) all be evaluated as follows:

1. Responses to the RFP shall be comprised of the technical proposal and fee proposal. The firms receiving the RFP shall be directed to submit a detailed fee proposal in a separate sealed envelope at the time of submission of the technical proposal.

2. The Review Committee shall evaluate the technical proposals submitted to the Authority. The Review Committee shall rank the technical proposals on the basis of numerical scores using the same rating criteria as it used to evaluate the EOIs. Other rating criteria may be considered, provided that they are specified in the RFP. The relative weight attributed to each rating factor and the methodology for ranking firms shall be set forth in the RFP.

3. The Review Committee shall normally require an interview and/or presentation by the firms with the highest ranked proposals. The Director, in his or her discretion, may waive this requirement for a particular project. Subsequent to the interview and/or presentation, the Review Committee shall revisit its technical ranking of the firms, re-score as appropriate and shall thereupon recommend the highest ranked firms to the Director, or the Executive Director if the Director was a member of the Review Committee.

(g) Cost negotiation and final selection shall be as follows:

1. For all projects, upon reviewing the Review Committee's recommendation, the Director or the Executive Director shall either concur with the selections or direct the team to pursue additional evaluation measures, consistent with the EOI solicitation or RFP, which shall be specified in writing by the Director or the Executive Director.

2. Once the selections are approved, the selected firms' fee proposals will be reviewed by the Review

Committee. The Executive Director may add one or more persons to the Review Committee to assist in the negotiation process. Using the fee proposals as a guideline, the Review Committee shall negotiate a fair and reasonable fee with the highest ranked firm, taking into consideration all relevant factors, including, but not limited to, the estimated value of the services to be rendered and the scope, complexity, and professional nature thereof. If the Review Committee is unable to negotiate a fair and reasonable fee with the highest ranked firm, it shall formally terminate negotiations and undertake negotiations with the second highest ranked firm. Failing accord with the second highest ranked firm, the Review Committee shall formally terminate negotiations and undertake negotiations with the third highest ranked firm. If the Review Committee is unable to negotiate successfully with any of the three highest ranked firms, it shall select additional professional firms in order of their competence and qualifications and it shall continue negotiations in accordance with the procedure set forth herein until an agreement is reached. The Executive Director, upon consultation with the Director, may direct the Review Committee to re-solicit the contract. Once a final fee is agreed upon, the Review Committee shall make its recommendation to the Director.

3. The Review Committee shall prepare a written report, for submission to the Director, outlining its recommendations and activities in reviewing, negotiating and selecting the recommended firm. The Director shall review the written report and the EOIs and/or responses to the RFP. The Director shall prepare written comments on the recommendation based on the review of these documents. The Director shall explain any disagreement with the recommendation.

4. The Director shall submit the Review Committee's report and the Director's comments to the Director of Law to review. If the Director of Law has concluded the proper procedures have been followed, the Review Committee's written report and comments of the Director shall be forwarded to the Executive Director.

5. If the Executive Director concurs with the recommendation, the Executive Director shall recommend to the Commissioners of the Authority, in writing, that the firm be issued an Order for Professional Service, attaching a copy of the Review Committee's report and the comments of the Director.

6. If the Executive Director is not satisfied with the recommendation, he or she may:

- i. Instruct the Review Committee to submit further support for its recommendation;
- ii. Direct the Review Committee to re-negotiate the fee;
- iii. Direct a re-examination of the technical criteria; or
- iv. Instruct the Review Committee to re-solicit the contract.

New Rule, R.1999 d.286, effective August 16, 1999.

See: 30 N.J.R. 4337(a), 31 N.J.R. 2369(c).

Amended by R.2002 d.91, effective March 18, 2002.

See: 33 N.J.R. 4204(a), 34 N.J.R. 1273(a).

In "Complex projects", substituted "\$1,000,000" for "\$500,000"; in "Simple projects", substituted "highway and bridge design" for "maintenance reserve" following "projects and", and substituted "\$1,000,000" for "\$500,000" throughout.

19:9-2.13 Procurement of routine towing services and emergency services on the New Jersey Turnpike and the Garden State Parkway

(a) All contracts between the Authority and qualified service providers for towing services on the New Jersey Turnpike (that is, routine towing services and storage services) and for towing and emergency services on the Garden State Parkway (that is, routine towing services, storage services and road services) entered into after June 15, 2004 shall be procured pursuant to the procedures and regulations promulgated under this section. Contracts for such towing services and/or towing and emergency services that were entered into prior to June 15, 2004 shall remain in effect in accordance with the terms thereof.

(b) The objective of these regulations is to establish procedures for the award of contracts for rotational towing services on the New Jersey Turnpike and towing and emergency services on the Garden State Parkway utilizing a competitive bid process open to prequalified bidders. Contracts shall be awarded to the lowest responsible bidders as determined pursuant to applicable law, including these regulations, and the specific requirements contained in all Requests for Bids (RFB) issued by the Authority, from time to time. In issuing an RFB, the Director of Purchasing is empowered to procure up to three rotational towers per service provider location (Zone) on the New Jersey Turnpike and up to two rotational towers per Zone on the Garden State Parkway, or such other number as may be required in any RFB. It is the Authority's intent to solicit bids, as and when needed, for specific Zones along the New Jersey Turnpike and the Garden State Parkway. In the case of the New Jersey Turnpike, the Zones shall be established between specific interchanges, and in the case of the Garden State Parkway, the Zones shall be established between specific mileposts, all as more specifically set forth in the RFB.

(c) Only bids submitted by towing services and/or towing and emergency services providers who have first been qualified by the Authority pursuant to a prequalification process shall be considered. At the discretion of the Director of Purchasing, the prequalification process may be accomplished through a combined Request for Qualifications/Request for Bids process or by a separate process preceding the issuance of an RFB. Upon award of a contract to the successful bidder(s), the standards governing prequalification shall be of continuing force and effect for the duration of such contract. The failure to maintain the standards of prequalification during the term of any contract awarded to a successful bidder shall be deemed a material breach of the contract.

(d) The criteria to be used by the Authority in determining prequalification shall include the following, the specific requirements of which shall be set forth in the RFB: reliability, experience, response time, acceptance of credit cards and prepaid towing contracts; equipment; location and condition of storage facilities, including, but not limited to, security safeguards for patrons and for towed and stored vehicles; liability and other insurance coverage; safeguards to protect the personal safety of customers, including considerations related to the criminal background of employees; and such other factors as the Authority may deem relevant and which shall be specified in the RFB. In recognition of the differences between the physical characteristics (for example, number of access and exit ramps) and operational aspects (for example, classes of permitted vehicles) on the New Jersey Turnpike and the Garden State Parkway, the Director of Purchasing may establish different specific criteria for prequalification of service providers on the New Jersey Turnpike and for prequalification of service providers on the Garden State Parkway.

(e) A towing services and/or towing and emergency services provider deemed qualified by the Authority shall thereafter be entitled to submit a bid in response to the RFB for which such provider has prequalified. Each RFB issued by the Authority shall prescribe specific requirements for the towing services and/or towing and emergency services being procured, which may include, at the discretion of the Authority, fixed fees for certain services, and which shall include a provision mandating that towing services and/or towing and emergency services providers shall not charge patrons any fees for towing services and/or towing and emergency services other than those applicable fees that are expressly set forth in N.J.A.C. 19:9-3.1 and 3.2.

(f) The Interim Uniform Procurement Regulations previously adopted by the Authority pursuant to the Consolidation Legislation, P.L. 2003, c.79, specifically those appearing at N.J.A.C. 19:9-2.1, General provisions; 19:9-2.4, Termination of contract, and 19:8-5.10, Tie bids, shall be applicable to procurements for towing services on the New Jersey Turnpike and towing and emergency services on the Garden State Parkway unless such provisions are inconsistent with the provisions of this section, in which event the provisions of this subchapter shall govern. In addition, N.J.A.C. 19:9-2.2, Purchases for amount requiring public advertising, and 19:9-2.8, Procedure to resolve protested solicitations and awards, shall be applicable to procurements for towing services on the New Jersey Turnpike and towing and emergency services on the Garden State Parkway, except that all functions ascribed therein to the "Director of Administrative Services and Technology or the Chief Engineer or Director of Maintenance" shall be performed by the Director of Purchasing in the case of routine towing and emergency services procurements only.

Special New Rule, R.2004 d.269, effective June 15, 2004 (to expire January 9, 2005).
See: 36 N.J.R. 3431(a).

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 Turnpike and Garden State Parkway, pursuant to contracts entered into after June 15, 2004 shall not exceed the following rates or such rates as may be approved and amended by the Commissioners from time to time in accordance with P.L. 2003, c.79 (N.J.S.A. 27:23-42b(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)):
 - i. Service charge of \$60.00; plus
 - ii. \$2.00 per mile on the Turnpike and the Garden State Parkway up to a maximum, including the Service charge, of \$80.00.
2. Other classes of vehicles (7,000 pounds and over registered GVW):
 - i. 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); plus
 - ii. \$3.00 per mile on Turnpike and the Garden State Parkway, 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
 - iii. An additional charge of \$25.00 for connecting air lines and \$25.00 for connecting lights;
 - iv. An additional charge of \$45.00 for disconnecting drive shaft on all trucks;
 - v. An additional charge of \$40.00 per axle for removing an axle; and
 - vi. Additional charge of \$45.00 for removing an air scoop.
3. Winching and wrecking (all classes of vehicles):
 - i. \$60.00 per hour for a light wrecker; and
 - ii. \$100.00 per hour for a heavy wrecker.
4. Specialized equipment:
 - i. \$250.00 per hour for specialized equipment, including, but not limited to, Landoll Hydraulic Trailer with tractor, Oshkosh, box trailer with tractor and driver.
 - ii. \$450.00 per hour for Rotator 60-ton capacity and up, and for 50 ton construction crane.

(b) Storage rates charged by Authority-authorized companies pursuant to contracts entered into after June 15, 2004 shall not exceed the following rates or such rates as may be approved and amended by the Commissioners from time to time in accordance with P.L. 2003, c.79 (N.J.S.A. 27:23-42b(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: First 24 hours free; \$25.00 per day thereafter.
2. Vehicles up to 14,999 pounds GVW: First 24 hours free; \$75.00 per day thereafter.
3. Vehicles over 14,999 pounds GVW:
 - i. All except buses: First 24 hours free; \$75.00 per unit per day thereafter;
 - ii. Buses: First 24 hours free; \$150.00 per day thereafter.

R.1975 d.221, effective August 1, 1975.

See: 7 N.J.R. 351(a), 7 N.J.R. 447(c).

As amended, R.1981 d.37, effective February 4, 1981.

See: 13 N.J.R. 49(b), 13 N.J.R. 165(c).

Substantially amended.

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Amended by R.1997 d.491, effective November 17, 1997.

See: 29 N.J.R. 4078(a), 29 N.J.R. 4861(b).

Deleted (a)1v and (a)1vi; inserted (a)4; and recodified (a)3iv as (a)4i.

Special amendment, R.2004 d.269, effective June 15, 2004 (to expire January 9, 2005).

See: 36 N.J.R. 3431(a).

Rewrote the section.

19:9-3.2 Road service rates on the Turnpike and Parkway

(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 shall conform with the following rates or such rates as may be approved and amended by the Commissioners from time to time in accordance with P.L. 2003, c.79 (N.J.S.A. 27:23-42b(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;
2. Motor fuel/oil: Cost of product plus road service charge;
3. Tire change: Road service charge;
4. Tire repair/replacement: Cost of product plus road service charge;
5. Battery service: Road service charge; and
6. Water: Road service charge.

(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 shall conform with the following rates or such rates as may be approved and amended by the Commissioners from time to time in accordance with P.L. 2003, c.79 (N.J.S.A. 27:23-42b(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;
2. Motor fuel/oil: Cost of product plus road service charge;
3. Tire change: Road service charge;
4. Tire repair/replacement: Cost of product plus road service charge;
5. Battery service: Road service charge; and
6. Water: Road service charge.

New Rule, R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Special amendment, R.2004 d.269, effective June 15, 2004 (to expire January 9, 2005).

See: 36 N.J.R. 3431(a).

In (a), rewrite the introductory paragraph and substituted "Motor fuel/oil" for "Gasoline/diesel" in 2; added (b).

19:9-3.3 Questions and disputes

Questions and disputes concerning the rates or quality of towing or road service provided by Authority-authorized companies on the Turnpike and Parkway may be directed, in writing, to the Director of Law.

New Rule, R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Special amendment, R.2004 d.269, effective June 15, 2004 (to expire January 9, 2005).

See: 36 N.J.R. 3431(a).

Substituted "companies on the Turnpike and Parkway may be directed, in writing, to the Director of Law" for "companies may be directed to the Director of Operations".

19:9-3.4 Miscellaneous permits and fees

In the event that any permit not set forth in the rules is requested from the Authority, such request shall be forwarded to the Director of Law. If it is determined to be proper and in the best interest of the Authority, its patrons and the public to grant such permit, the Authority may grant the permit and impose a fee for the permit on a man-hour basis.

New Rule, R.1998 d.492, effective October 5, 1998.

See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

Special re-adoption, R.2004 d.269, effective June 15, 2004 (to expire January 9, 2005).

See: 36 N.J.R. 3431(a).

SUBCHAPTER 4. INSPECTION AND OBTAINING OF AUTHORITY RECORDS

19:9-4.1 General provisions

(a) Except as otherwise provided by law, all Authority records required by law to be made, maintained, or kept on file shall be available to any individual for the purpose of inspection or hand copying during regular business hours at the Authority's main offices at the Administration Building, Turnpike Interchange 9 at Route 18 North, East Brunswick, New Jersey. Other records within the possession of the Authority may be made available for inspection or hand copying subject to N.J.A.C. 19:9-4.2.

(b) Except as otherwise specified herein, copies of records may be obtained by written request to:

New Jersey Turnpike Authority
Law Department
Records Request
PO Box 1121
New Brunswick, New Jersey 08903-1121

(c) Copies of New Jersey State Police Troop D accident reports concerning accidents on the Turnpike may be obtained upon payment of a fee in accordance with the schedule provided in N.J.A.C. 19:9-4.4(a)7 payable to the New Jersey Turnpike Authority, accompanied by a written request to:

New Jersey Turnpike Authority
Operations Department
Accident Report Request
PO Box 1121
New Brunswick, New Jersey 08903-1121

(d) Criminal reports statements, photographs and other evidential reports, if any, attached to accident reports will be furnished only in accordance with applicable laws and the New Jersey court rules.

(e) Photographs of the Turnpike roadway, structures and/or appurtenances will be taken by the Authority, through its employees or agents, upon written request to the Director of Communications at the address set forth in (b) above. Requests must specify the exact location of the site, accompanied by a brief description of the item to be photographed. The taking of photographs by persons other than those employed or contracted by the Authority shall be governed by N.J.A.C. 19:9- 1.22.

(f) Records sought in connection with a claim or suit against the Authority, its agents, servants or employees, will be furnished only in accordance with applicable laws and the New Jersey court rules.

(g) Copies of bid documents for contractors and vendors bidding on work, services or materials shall be obtained at

fees established by the Turnpike Authority to cover printing and distribution costs and published in the advertisement for the receipt of bids.

(h) The fees for obtaining Authority records, which are set forth in N.J.A.C. 19:9-4.4 shall be collectable at or before delivery of the documents copied. Payment shall be made by check or money order payable to the New Jersey Turnpike Authority.

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Amended by R.1998 d.492, effective October 5, 1998.

See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

Rewrote (e).

Amended by R.2000 d.289, effective July 3, 2000.

See: 32 N.J.R. 1290(a), 32 N.J.R. 2468(a).

In (c), substituted "fee in accordance with the schedule provided in N.J.A.C. 19:9-4.4(a)7" for "\$10.00 report charge" in the introductory paragraph.

19:9-4.2 Nonpublic information

(a) The following records, if not required by law to be made, maintained, or kept on file, may be deemed by the Director of Law not to constitute public records subject to the inspection, examination and copying provisions of this subchapter:

1. All evaluative reports or memoranda submitted to, or prepared by, the Authority, its consultants, agents, or employees;

2. All records that are interagency or intraagency communications other than statistical or factual tabulations of data or final Authority policy or determinations;

3. All records concerning applications for employment with the Authority;

4. All records containing personal, financial or proprietary information submitted by individuals, corporations, partnerships and other entities doing business or seeking to do business with the Authority;

5. All records which, if disclosed, would impair present or imminent contract awards or collective bargaining negotiations;

6. All records which, if disclosed, would constitute an invasion of personal privacy;

7. All records compiled for law enforcement or official investigatory purposes if their disclosure would interfere with law enforcement investigations or legislative, judicial, administrative, or disciplinary proceedings or hearings, or deprive a person of a right to a fair trial or hearing or impartial adjudication, or identify a confidential source or disclose confidential information relating to a criminal, administrative or disciplinary investigation, or reveal criminal investigative techniques or procedures, except routine techniques or procedures, or where disclosure would endanger the life or safety of any person or prejudice the Authority's ability to seek judicial or administrative relief;

8. All records otherwise exempted from disclosure by State or Federal law; and

9. Any other documents protected by a privilege.

As amended, R.1978 d.258, effective July 31, 1978.

See: 10 N.J.R. 310(a), 10 N.J.R. 408(c).

As amended, R.1982 d.447, effective December 20, 1982.

See: 14 N.J.R. 974(b), 14 N.J.R. 1464(e).

Increased fees from \$3.00 to \$10.00; \$6.00 to \$15.00 and \$1.00 to \$10.00.

Repeal and New Rule, R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Section was "Photographs; slides".

19:9-4.3 Procedures for obtaining Authority records

(a) Requests for inspection or copying of public records shall be made in writing to the Authority at the address set forth in N.J.A.C. 19:9-4.1. Each request must set forth the name and address of the party requesting the document. The Director of Law, in consultation with the Executive Director, shall review all requests, shall acknowledge in writing to the requesting party the receipt of each request and shall notify the requesting party of the time and date, or alternative times and dates, that the records will be made available for inspection and copying. If the request is denied, the requesting party will be notified of the denial and the reasons for such denial.

(b) Records shall be inspected only under the supervision of the Director of Law or his or her designee, in consultation with the Executive Director. Such inspections shall be made at the Administration Building during regular business hours or at such other times and/or locations as the Director of Law deems convenient.

(c) All duplication shall be done by, or at the request of, the Authority, and the charges shall be in accordance with those set forth in N.J.A.C. 19:9-4.4. If the Director of Law finds that there is no risk of damage, mutilation or loss of such records and that it would not be incompatible with the economic and efficient operation of the Authority, the Director of Law may permit an individual or entity seeking to copy more than 100 pages to use his or her own photographic process, approved by the Director of Law upon the payment of a reasonable fee, considering the equipment and the time involved, to be fixed by the Director of Law at not less than \$10.00 nor more than \$50.00 per day. If it is not practicable for the Authority to copy any document, that document will be copied commercially, and the person requesting the copy shall be charged a fee equal to the Authority's cost for such commercial reproduction.

Repeal and New Rule, R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Section was "Bid documents"

Amended by R.1997 d.455, effective November 3, 1997.

See: 29 N.J.R. 3432(a), 29 N.J.R. 4714(b).

19:9-4.4 Fees

(a) Copies of Authority records shall be made available by the Authority to the requesting individual or entity upon full payment of copying costs. Copying costs shall be determined in accordance with the following schedule:

1. Documents:

- i. First page to 10th page: \$.75 per page;
- ii. Eleventh page to 20th page: \$.50 per page;
- iii. All pages over 20: \$.25 per page.

2. Drawings, maps, and plan sheets: \$1.00 per page;

3. Microfilm copies, any size: \$1.00 per page;

4. Existing Photographs:

i. Photographs up to 8 by 10 inches, black and white glossy: \$10.00 per picture;

ii. Photographs 8 by 10 inches, color glossy: \$15.00 per picture;

5. Photographs taken upon request (prices include travel time, materials and film processing) up to 8 by 10 inches:

i. Black and white, first photograph: \$30.00;

ii. Black and white, each additional photograph: \$15.00;

iii. Color, first photograph: \$40.00;

iv. Color, each additional photograph: \$20.00.

6. Slides, 35 millimeter: \$10.00 per slide;

7. State Police Accident reports:

i. Certified copies: All pages \$10.00;

ii. Uncertified copies: All State Police reports consist of a minimum of two pages. Therefore, pursuant to N.J.S.A. 39:4-131, the Authority shall charge copying costs of \$1.50 for all uncertified reports.

8. State Police Photographs up to 8 by 10 inches, color glossy:

i. First photograph: \$5.00;

ii. Each additional photograph: \$3.00.

(b) Payment may be waived when the request is made by the United States, the State of New Jersey, or any agency or political subdivision thereof, individuals or firms doing work or performing services for the Authority, organizations or associations of which the Authority is a member, credentialed media organizations, and organizations exchanging information with the Authority on a reciprocal basis.

(c) A fee of \$5.00 per document or photograph will be charged for certification by the Secretary of the Authority

that an Authority document is authentic or that a record of which the Authority is legal custodian cannot be found.

(d) The Authority may, in its discretion, prepare responses to requests for traffic and accident statistics. Such requests shall be submitted to the Director of Operations. There shall be a minimum fee of \$50.00 for responses to such requests; for requests which involve more than one man-hour for research, investigation and/or analysis by Authority employees, the charges shall be on a man-hour basis.

As amended, R.1983 d.554, effective December 5, 1983.
See: 15 N.J.R. 1643(a), 15 N.J.R. 2046(e).

Amended text to allow requests to be made by mail or in person. Reports obtained in person cost \$1.00; mailed reports cost \$6.00. Repeal and New Rule, R.1993 d.496, effective October 4, 1993.
See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Section was "New Jersey State Police reports".
Amended by R.1998 d.492, effective October 5, 1998.
See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

Rewrote (a); and added a new (d).
Amended by R.2000 d.289, effective July 3, 2000.
See: 32 N.J.R. 1290(a), 32 N.J.R. 2468(a).

Rewrote (a)7.

SUBCHAPTER 5. ADMINISTRATIVE PRACTICES**19:9-5.1 Pre-employment screening**

(a) Applicants for employment with the New Jersey Turnpike Authority shall be of good moral character and shall not have been convicted of any crime.

(b) The New Jersey Turnpike Authority or its designee shall submit requests for any Criminal History Record Information (CHRI) from the New Jersey State Police regarding any applicant for employment with the New Jersey Turnpike Authority.

(c) A medical examination, including drug screening, may be performed on any applicant for employment by the Authority's designated medical representative. Annual medical evaluations may subsequently be performed on all employees, and for appropriate personnel, may include drug screening.

R.1979 d.181, effective May 7, 1979.

See: 11 N.J.R. 309(a).

Amended by R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Amended by R.1998 d.492, effective October 5, 1998.

See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

In (b), inserted "or its designee" following "Turnpike Authority".

19:9-5.2 Waivers generally

Nothing in these rules shall be construed to prohibit the Authority from granting waivers from any provisions hereof or the 5th Edition 1987 New Jersey Turnpike Authority Standard Specifications, as may be updated from time to time.

New Rule, R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Amended by R.1998 d.492, effective October 5, 1998.

See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

Substituted "or the 5th Edition 1987" for "the", and added "as may be updated from time to time" at the end.

19:9-5.3 Procedure for waiver

Any party desiring a waiver or release from the express provisions of any of these rules, or the 5th Edition 1987 New Jersey Turnpike Authority's Standard Specifications, as may be updated from time to time, shall submit a written request to the Executive Director. Any waiver so requested may be granted only upon a finding that such waiver would not jeopardize the health, safety or welfare of the Turnpike, its patrons or the general public, would not contravene the provisions of N.J.S.A. 27:23-1 et seq., and that granting the waiver would be consistent with the Authority's statutory purposes.

New Rule, R.1993 d.496, effective October 4, 1993.

See: 25 N.J.R. 2839(b), 25 N.J.R. 4605(a).

Amended by R.1998 d.492, effective October 5, 1998.

See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

Substituted "or the 5th Edition 1987" for "the", and inserted "as may be updated from time to time," in the first sentence.

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

19:9-6.1 Scope

This subchapter shall apply to all petitions made by interested persons for the promulgation, amendment or repeal of any rule by the New Jersey Turnpike Authority, pursuant to N.J.S.A. 52:14B-4(f) and N.J.S.A. 27:23-29.

19:9-6.2 Procedure for petitioner

(a) Any person who wishes to petition the Authority to promulgate, amend or repeal a rule must submit to the Executive Director, in writing, the following information:

1. The name of the petitioner;
2. The substance or nature of the rulemaking which is requested, together with the citation of affected rule, if applicable;
3. The reasons for the request and the petitioner's interest in the request; and
4. References to the authority of the Authority to take the requested action.

(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.

(c) Petitions shall be addressed to:

Executive Director

New Jersey Turnpike Authority

PO Box 1121

New Brunswick, NJ 08903

(d) Any document submitted to the Authority which is not in substantial compliance with (a) above shall not be deemed to be a petition for a rule requiring further Authority action pursuant to N.J.S.A. 52:14B-4(f) and N.J.S.A. 27:23-29.

Amended by R.1998 d.492, effective October 5, 1998.

See: 30 N.J.R. 2835(a), 30 N.J.R. 3661(a).

In (b), deleted "Donald L. Watson" preceding "Executive Director" in the address.

Amended by R.2003 d.288, effective July 21, 2003.

See: 34 N.J.R. 2411(a), 35 N.J.R. 3392(b).

Added new (b); recodified existing (b), (c) as (c), (d).

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. The name of the petitioner;
2. The substance or nature of the rulemaking action which is requested;
3. The problem or purpose which is the subject of the request; and
4. The date the petition was received.

(b) Within 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. The name of the petitioner;
2. The New Jersey Register citation for the notice of petition, if that notice appeared in a previous New Jersey Register;
3. Certification by the Executive Director that the petition was duly considered pursuant to law;
4. The nature or substance of the Authority's action upon the petition; and
5. A brief statement of reasons for the Authority's action.

(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. 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

“Electronic Toll Collection System” or “ETC System” means the electronic system employed or utilized by the Authority to register and collect the toll required to be paid for a vehicle entering a toll plaza owned and/or operated by, or upon the behalf of, the Authority.

“Inadvertent toll violation” means a toll violation that occurs when a person who enters a toll collection plaza and takes every reasonable action to pay the required toll but who is prevented by circumstances beyond his or her reasonable ability to control from paying the required toll. The owner of a violating vehicle shall have the affirmative obligation to establish an inadvertent toll violation. An inadvertent toll violation does not include the following:

1. Failure to have the coinage, currency or other authorized means necessary to pay the required toll;
2. Entering a dedicated ETC System lane with a vehicle that is not equipped for the electronic toll collection system; or
3. Failure to adequately deposit the full amount of the toll in a toll collection basket.

“Lessee” means any person, corporation, firm, partnership, agency, association or organization that rents, leases or contracts for the use of a vehicle and has exclusive use of the vehicle for any period of time.

“Lessor” means any person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee under a rental agreement, lease or other contract that provides the lessee with the exclusive use of the vehicle for any period of time.

“Operator” means the term “operator” as defined in N.J.S.A. 39:1-1.

“Owner” means the term “owner” as defined in N.J.S.A. 39:1-1.

“Toll collection monitoring system” means a vehicle sensor, placed in a location to work in conjunction with a toll collection facility, that produces one or more photographs, one or more microphotographs, a videotape or other recorded image, or a written record, of a vehicle at the time the vehicle is used or operated in violation of the toll collection monitoring system rules. The term shall also include any other technology that identifies a vehicle by photographic, electronic or other method.

“Toll collection monitoring system rules” means the rules contained in this subchapter and authorized and adopted pursuant to N.J.S.A. 27:23-34.2 that prohibit a vehicle from making use of any Turnpike project except upon the payment of such tolls as may from time to time be prescribed by the Authority and that further makes it a violation subject to a civil penalty for any person to refuse to pay, to evade, or to attempt to evade the payment of such tolls, if

the violation is recorded by a toll collection monitoring system as defined in this section.

“Vehicle” means the term “vehicle” as defined in N.J.S.A. 39:1-1.

“Violating vehicle” means a vehicle alleged to be involved in a violation of the toll collection monitoring system rules.

19:9-9.2 Toll collection monitoring system violation; advisory and payment request

(a) No owner, operator, lessor or lessee shall refuse to pay, evade or attempt to evade the payment of the toll for passage of a vehicle on the New Jersey Turnpike, unless an exemption exists for the payment of the required toll. Except as provided in N.J.S.A. 27:23-34.3(b), (e) and (f) below, an owner of a vehicle shall be jointly and severally liable for the failure of an operator of the vehicle to comply with the toll collection monitoring system rules. The owner of a vehicle shall be liable if the vehicle was used or operated by the operator with the express or implied permission of the owner when the violation of the toll collection monitoring system rules was committed, and the evidence of the violation is obtained by a toll collection monitoring system. An owner of a vehicle shall not be liable if the operator of the vehicle has been identified and charged with a violation of N.J.S.A. 27:23-25 for the same incident.

(b) Within 30 days of the date that a toll violation occurs, the Authority or its agent may send an Advisory and Payment Request to the owner of the violating vehicle by regular mail as provided for in P.L. 1997, c.59. Upon receipt of the Advisory and Payment Request, the owner of the violating vehicle shall pay to the Authority or its agent, the proper toll and an administrative fee in the amount of \$25.00 per violation; provided, however, that an owner that proves an inadvertent toll violation has occurred shall be required only to pay the toll and shall not incur the administrative fee. If the owner fails to pay the required toll and fee within 60 days of the date on which the Advisory and Payment Request was sent, the owner shall be subject to penalties described herein. The authority or its agent may cause additional Advisory and Payment Requests to be issued in regard to the unresolved violation.

(c) The Advisory and Payment Request shall contain the name and address of the person alleged to be liable as an owner of a violating vehicle, the license plate number of the violating vehicle, the location where such violation took place, and the date and time of such violation.

(d) The Advisory and Payment Request shall contain information advising the person named of the manner in which he or she may contest the liability alleged in the Advisory and Payment Request or assert that liability should not attach in a given instance due to circumstances that caused an inadvertent toll violation to occur. Such Advisory

and Payment Request shall also contain notice that failure to pay the indicated toll and administrative fee or failure to successfully contest the liability will render the owner subject to the penalties described in N.J.A.C. 19:9-3.

(e) If an owner receives an Advisory and Payment Request pursuant to this section for any time period during which the vehicle was reported to the police as having been stolen, it shall be a valid defense to an allegation of liability for a violation of this section that the vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. If an owner receives an Advisory and Payment Request pursuant to this section for any time period during which the vehicle was stolen, but not as yet reported to the police as having been stolen, it shall be a valid defense to an allegation of liability for a violation of this section that the vehicle was reported stolen within two hours after the discovery of the theft by the owner. For purposes of asserting that the vehicle was stolen, it shall be sufficient that a copy of the police report on the stolen vehicle be sent first class mail to the Authority or its agent at the address specified on the Advisory and Payment Request.

(f) An owner who is a lessor of a vehicle for which an Advisory and Payment Request was issued pursuant to this section shall not be liable for the violation, provided that the lessor submits to the Authority or its agent issuing the Advisory and Payment Request a copy of the rental agreement, lease or other such contract document covering such vehicle on the date of the violation (with the name and address of the lessee clearly legible), within 30 days after receiving the original Advisory and Payment Request. Failure to send such information within such 30 day time period shall render the lessor liable for the prescribed penalty. If the lessor complies with these provisions, and the lessee is sent an Advisory and Payment Request within 30 days of such compliance by the lessor, the lessee of the vehicle on the date of the violation shall be deemed to be the owner of such vehicle for purposes of this section and shall be subject to liability for same.

(g) The Authority may designate an employee(s) or agent(s) of the Authority to be a complaining witness on behalf of the Authority and to cause a summons and complaint to issue to the extent permitted by, and pursuant, to the Rules Governing the Courts of the State of New Jersey.

(h) The Authority may adopt a form of contract ("subscription agreement") which may set forth the terms and provisions that govern the responsibilities, duties and obligations of an owner or operator as a subscriber to the Authority's ETC System, which contract may include the termination of the owner or operator as a subscriber of the Authority's ETC System if the owner or operator fails to comply with the terms and provisions of the aforesaid contract.

19:9-9.3 Penalties

(a) Any violation of this subchapter shall be punishable by a civil penalty of not less than \$50.00 or more than \$200.00.

(b) Nothing in this subchapter shall be construed as limiting the power of the Authority to proceed against an operator for a violation of N.J.A.C. 19:9-1.19 or as prohibiting or limiting the enforcement of the motor vehicle and traffic laws as set forth in Title 39 of the Revised Statutes, except that an operator charged with a violation of N.J.S.A. 27:23-34 shall not also be liable for the civil penalty provided in (a) above for the same incident.

APPENDIX A

SCHEDULE OF CLASSIFICATIONS

Classification—Brief Description

1. Bridge Structures—
Bridge, viaducts, retaining walls, foundations, fabrication and erection of structural steel, intermediate members, deck repair and/or replacement.
2. Communications—
Installation and testing of switching equipment, telecommunications and all other communication systems.
3. Computer Systems—
Fabrication of computer system, installation, electrical and other work incidental thereto, including associated software.
4. Concrete Maintenance—
Concrete repair to reinforced concrete structures, and all bridge related repairs including concrete, reinforcement steel and structural steel.
5. Demolition—
Demolition and/or removal of buildings, structures.
6. Dredging—
Grading and drainage, excavation, embankment, fill, subgrade material, muck removal—primarily by dredging methods.
7. Electrical Work, Buildings—
All electrical work for buildings.
8. General Construction, Buildings—
General construction of buildings including all incidental work.
9. General Construction, Highway—
Work involving excavation, embankment, grading, drainage, paving (no bridge construction).
10. Grading and Drainage—
All clearing, excavation, embankment grading and drainage, including the construction of storm drainage structures and storm drainage pipe installation.
11. Guard Rail—
All types of guardrail.
12. Heating, Ventilating and—
All heating, ventilating, air conditioning work involved in building construction.
13. Heavy Highway—
Work involving the combination of excavation, embankment, grading, drainage, paving, and/or bridges.
14. Kitchen Equipment—

- Fabrication, installation of kitchen and restaurant equipment for buildings.
15. Landscaping—
Planting, seeding, topsoiling, grading, jute mesh, erosion control and all other landscaping procedures.
 16. Electrical Work, Highway—
Roadway, area, parking and ramp lighting, lighting standards, electrical distribution panels and other underground and overhead electrical work.
 17. Painting—
Cleaning, priming, painting of structural steel and members (bridges, towers, tanks).
 18. Paving—
New construction of various courses of bituminous concrete with machine operated with automatic controls. Final preparation of the underlying material is also included.
 19. Plumbing—
All plumbing work for building construction including sanitary facilities.
 20. Sewerage and Water Supply—
Construction of sewerage and water treatment plants and pumping stations, including structures and equipment, installation and repair; erection, repair and/or replacement of water towers.
 21. Signing—
All types of signing, delineation, overhead sign structures.
 22. Structural Steel and Iron—
Erection of Buildings structural steel for buildings, including reinforcing and ornamental iron work.
 23. Toll booths—
Fabrication of toll booths.
 24. Special Classifications—
Specialized work not sufficiently included in other defined classifications such as, but not limited to the following:
 - Toll Revenue and Computer—
Toll revenue system design, systems fabrication, testing, installation, including associated computer and communication subsystems with software development.
 - Timber Construction—
Bridge fender systems and all types of timber construction.
 - Architectural Metal Panel Construction—
All types of architectural metal panel construction.
 - Fencing—
All types of fencing.
 - Fuel Distribution Systems—
Construction of fuel distribution systems including installation of dispensers, storage tanks, and all associated electrical work and piping.
 - Interior Furnishings—
Carpeting and other interior furnishings.
 - Water Supply Well Construction, Rehabilitation and Testing—
Construction, rehabilitation and testing of water supply wells.
 - Lining Fuel Storage Tanks—
Epoxy resin lining of fuel storage tanks.
 - Automotive Service Equipment—
Vehicle lifts and all types of automotive service equipment.
 - Concrete Median Barrier—
Construction of concrete median barrier using extrusion (slip-form) techniques.
- Bridge Drainage Systems—
Construction and modification of bridge supported and in-ground bridge drainage systems.
- Prefabricated Buildings—
Installation of all types of prefabricated buildings.
- Roofing—
Construction and rehabilitation of all types of roofing systems.
- Fire Protection Systems—
Construction of dry chemical, pre-engineered and CO₂ type fire protection systems.
- Telephone Systems—
Design, fabrication and installation of computer controlled telephone systems with special interfaces including testing, equipment maintenance, software development and owner training.
- Asbestos Removal/Treatment—
Work involving removal, replacement, repair, enclosure, encapsulation, and/or legal disposal of asbestos and asbestos containing materials.
- Local Area Network—
Providing a complete baseband or broadband local area network, such as Ethernet, Manufacturing Automation Protocol (MAP) or Token Ring. These installations shall also include related electrical work.
Basic materials consist of coaxial cable, communications cable, radio cable, connectors, terminal blocks, equipment jacks, modems, terminal servers, routers, transceivers, electronic enclosures, and other miscellaneous components. This type of work shall be demonstrated to have been completed by the Contractor and not subcontracted to others.
- Precast-Concrete Noise Barriers—
Fabricating and furnishing pre-concrete noise barriers consisting of sound absorbing materials of lightweight concrete or mineralized wood chips and portland cement such as Sound-Lok as manufactured by Easi-Set Industries, Midland, VA or Durisol as manufactured by Fanwell Corp., Arlington, VA.
Fabricating plant must be capable of fabricating 5,000 square feet per day of precast concrete noise barrier panels and storing 200,000 square feet of such panels.
- Signage—Fabrication only—
Fabricating and furnishing all types of signing, delineation and overhead sign structures.
- Traffic Control Electronics—
Fabricating, testing and installing traffic control unit enclosures complete with electronics and associated computer subsystems.
- Precast-Concrete Noise Barriers—Non-Absorptive Materials—
Fabrication and furnishing of reinforced precast concrete noise barrier Materials system components consisting of posts and modular panels. Fabrication methods shall employ form-liners for precasting standard materials consisting of concrete, reinforced with epoxy coated deformed bars. No sound absorptive materials should be integrated within these barrier components.
Fabricating plant must be capable of fabricating 5,000 square feet per day of precast concrete noise barrier panels and storing 200,000 square feet of such panels.
- Miscellaneous Concrete—