

41 N.J.R. 2454(a)

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RULE PROPOSALS

**OTHER AGENCIES
SOUTH JERSEY TRANSPORTATION AUTHORITY**

41 N.J.R. 2454(a)

Proposed Readoption with Amendments: N.J.A.C. 19:75

South Jersey Transportation Authority Rules of Operation

Authorized By: South Jersey Transportation Authority, Bart R. Mueller, Executive Director.

Authority: N.J.S.A. 27:25A-7(q) and 27:25A-22(a) and (c).

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

Proposal Number: PRN 2009-183.

A **public hearing** concerning the proposal will be held on Monday, July 13, 2009 at 10:00 A.M. at:

SJTA Administration Building
Frank S. Farley Service Plaza
Milepost 21.5-Atlantic City Expressway
Hammonton, New Jersey

Submit written comments by August 14, 2009 to:

Carol Miller
Director, Transportation Services
South Jersey Transportation Authority
P.O. Box 351
Hammonton, New Jersey 08037
Fax Number: (609) 965-7315

The Authority proposal follows:

Summary

Pursuant to the South Jersey Transportation Authority Act (SJTA Act), N.J.S.A.

27:25A-1 et seq., specifically N.J.S.A. 27:25A-7(q), the South Jersey Transportation Authority (Authority) is empowered to promulgate rules and regulations necessary for the management and regulations of its affairs and the management, control and regulation of motorbus route and motorbus charter services, except for those operated pursuant to the New Jersey Public Transportation Act of 1975, N.J.S.A. 27:25-1 et seq.

Chapter 75 was initially adopted in 1984, and was subsequently readopted with amendments, new rules and/or repeals in 1989, 1994, 1998 and 2004 (see 15 N.J.R. 1933(a), 16 N.J.R. 149(b); 20 N.J.R. 1680(b), 21 N.J.R. 314(c); 25 N.J.R. 4874(a), 26 N.J.R. 831(a); 30 N.J.R. 3396(a), 31 N.J.R. 148(a); and 35 N.J.R. 4613(a), 36 N.J.R. 3158(a)).

Pursuant to the sunset provisions of N.J.S.A. 52:14B-5.1c, N.J.A.C. 19:75, South Jersey Transportation Authority Rules of Operation, is scheduled to expire on November 20, 2009.

[page=2455] The Board has reviewed the rules and determined that they are necessary, reasonable and proper for the purposes for which they were originally promulgated and subsequently changed.

The Board proposes that N.J.A.C. 19:75 be readopted with certain amendments. The amendments fall into categories of (1) revision of definitions; (2) revising the bus routes removing Sands Hotel and Casino references; (3) revising the time period for renewal of certificate of approved facilities; and (4) raising bus permit and medallion fees. The Authority proposes to specify the sunset of the rules to be five years, in accordance with N.J.A.C. 1:30-6.4, and to undertake any needed amendments as they arise.

The substantive provision of the rules proposed for readoption and amendments may be summarized as follows:

N.J.A.C. 19:75-1 contains the general provisions of the chapter.

N.J.A.C. 19:75-1.1, Definitions, is amended to revise the definition of "bus" or "buses" to conform to the definition provided for by the Department of Transportation. The previous definition included any motor bus that operated regular route service. The proposed new definition provides greater delineation as to what constitutes a "bus," and includes all autobuses under the jurisdiction of the Motor Vehicle Commission that are subject to the Federal Motor Carrier Safety Regulations (49 CFR Part 571).

N.J.A.C. 19:75-1.2 contains the rules for exempt buses.

N.J.A.C. 19:75-1.3 through 1.6 are reserved.

N.J.A.C. 19:75-2 sets forth the rules for the routes for all buses entering the city of Atlantic City. N.J.A.C. 19:75-2.3, Routes of travel to and from casino hotels, Atlantic City Convention Hall (Boardwalk facility), the Atlantic City Rail Terminal/the new Atlantic City Convention Center/Sheraton Hotel, Atlantic City International Airport, Authority approved bus parking facilities, major tourist destinations, and other major traffic generators, is amended to delete subsection (h) and paragraph (o)5 to remove routes to and from and referencing the Sands Hotel and Casino which no

longer exists.

N.J.A.C. 19:75-3 sets forth the rules pertaining to applications, approvals and fees. N.J.A.C. 19:75-3.4, Certificates for approved facilities; general; renewals, is amended at subsection (b) to require renewal of certification of approved facilities every year, while currently the renewal occurs every three years. N.J.A.C. 19:75-3.12, Permit and medallion fees, is amended at subsection (a) to add fees related to bulk permit application in the amount of \$ 3.00 for two to 50 permits, \$ 5.00 for 51 to 200 permits, \$ 10.00 for 201 to 500 permits and \$ 15.00 for 501 permits and above. Paragraph (b)1 is amended to provide for an adjustment to the current and future fees related to annual single bus medallions, at a rate from October 1, 2009 through September 30, 2010 of \$ 775.00 and a rate increase of \$ 25.00 per year through 2014. Paragraph (b)2 is amended to also provide for an adjustment to the current and future fees related to fleet medallions, at a rate of \$ 41,500 for the time period beginning October 1, 2009 through September 30, 2010 with the rate increasing by \$ 1,000 per year through 2013.

N.J.A.C. 19:75-4 sets forth the rules for operations and approved facility requirements.

N.J.A.C. 19:75-5 sets forth safety requirements pertaining to bus inspections, routing requirements and accident or other emergency procedures.

N.J.A.C. 19:75-6 sets forth the emergency management procedures.

N.J.A.C. 19:75-7 sets forth the provisions for violations and penalty procedures and revocation, suspension or modification of certificates, permits or medallions.

N.J.A.C. 19:75-8 sets forth the rules related to variances including the procedures and fees for major and minor variances.

N.J.A.C. 19:75-9 and 10 are reserved.

N.J.A.C. 19:75-11 sets forth the general provisions for review of applications and appeals based on that review.

N.J.A.C. 19:75-12 is reserved.

N.J.A.C. 19:75-13 sets forth a severability clause for the rules.

As the Authority has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The readoption of these rules with proposed amendments does not result in any dramatic substantive revisions. Rather, greater clarity and understanding of the rules is achieved through minor revisions and additions. Thus, the amendments better enable the Authority to achieve the goals of the rules and in particular through requiring yearly recertification of approved facilities, the Authority is increasing safety.

The increased fees for bus medallions and addition of fees related to bulk permit purchases are appropriate pursuant to the applicable Consumer Price Index.

In short, the rules proposed for readoption with amendments continue to be necessary to achieve the goals of safety.

Economic Impact

The readoption of these rules with proposed amendments includes provisions for certain increase in fees for bus medallion and bulk permit purchases. The increased fees are necessary in order to fund the Authority's cost of bus operator regulation. These fees have not been increased since 2004. Increased revenues from these fees will allow the Authority to oversee bus operations without the need to utilize other Authority revenues to subsidize partially its cost of existing regulation. These fees will also support additional services, including compilation of bus operator safety records and better coordination of emergency services.

Application fees, application review fees and escrow fees for certificates for approved facilities remain unchanged. However, approved facilities are now required to be inspected for approval on a yearly basis. This increase in fees will be used to support inspection costs and other bus operations.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption with amendments are not subject to any Federal requirements or standards except as noted below. The rules are dictated by the statutes, which establish the Authority, N.J.S.A. 27:25A-1 et seq., and its purpose of coordination of the transportation systems of South Jersey. At N.J.A.C. 19:75-1.1, the definition of a "bus," incorporates by reference the Federal Motor Carrier Safety Regulations, 49 CFR Part 571. The definition meets but does not exceed the Federal standards.

Jobs Impact

The rules proposed for readoption with amendments will not result in the generation or loss of jobs in the State of New Jersey.

Agriculture Industry Impact

The rules proposed for readoption with amendments will have no impact on the agriculture industry in New Jersey.

Regulatory Flexibility Analysis

Approximately four bus parking facilities, 50 bus activity centers, seven bus maintenance facilities and 100 bus operators currently qualify as a "small business" pursuant to the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

The Authority has carefully reviewed those existing rules proposed for readoption with amendments to determine whether the rules provided therein are necessary in order for the Authority to fulfill its legislative purpose to promote the safe and efficient movement of motor bus charter services and motor bus regular route service within Atlantic City and the South Jersey Transportation Authority Service

Area, especially in view of the cost of compliance with such regulations incurred by small businesses. By way of example, the Authority has reviewed each submission required of an applicant for a certificate for an approved facility to determine the purpose for such submission in connection with the Authority's oversight responsibilities. The Authority has paid particular attention to those submission requirements which might entail the need for applicants to utilize professional consultants and, whenever possible, the Authority has sought to limit the need for such professional services to those technical requirements, such as submission of an Impact Statement, which are necessary for the Authority to fulfill its statutory obligations. Apart from these limited technical submissions, applicants should be able to complete those other parts of the application without [page=2456] assistance of professional consultants, although applicants may otherwise choose to seek such assistance.

The reporting, recordkeeping and compliance requirements for operators of all approved facilities to submit a daily manifest has been modified to encourage the use by operators of the Authority's computerized/electronic manifest program. Those operators not participating in that program who submit manually prepared manifests to the Authority will be required to pay a monthly surcharge of \$ 100.00. That surcharge is intended to reimburse the Authority for its estimated administrative expense to process data manually submitted and to integrate this data with other electronically communicated data. Since the computer hardware and software necessary to participate in the Authority's computerized/electronic manifest program is generally available and commonly used by small businesses, it is not anticipated that participation in the Authority's computerized/electronic manifest program would impose additional operating expense upon operators of approved facilities.

More generally, the rules to provide for a common application for a Certificate for an approved facility should result in reduced administrative and professional expense to all applicants. The amendment to the facility approval regarding reapplication on a yearly basis is necessary for the Authority to maintain better records on the approved facilities.

It is anticipated that the proposed amendments will not result in any increased capital costs to small businesses. There will be an increase in operational costs to bus operators as a result of the increased fees for medallions. Compliance costs for operators of approved facilities have not been altered.

In the drafting of the proposed amendments and readoption of certain rules, the Authority has endeavored to minimize the cost of compliance, especially the costs borne by small businesses, while discharging the Authority's responsibility to promote public health and safety in the conduct of its Bus Management Program.

Smart Growth Impact

It is anticipated that the rules proposed for readoption with amendments will have no impact upon the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The rules proposed for readoption with amendments will have no impact on housing affordability in this State. The rules set forth procedures for bus management on

Authority roadways.

Smart Growth Development Impact

The rules proposed for readoption with amendments will have no impact on the number of housing units or the availability of affordable housing in the State, and will have no affect on smart growth development in Planning Areas 1 or 2, or within designated centers under the State Development and Redevelopment Plan. The rules set forth procedures for bus management on Authority roadways.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 19:75.

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

19:75-1.1 Definitions

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

. . .

["Bus" means any motor vehicle or motorbus operated as a motorbus charter service or on motorbus regular route service as those terms are defined in this chapter.]

"Bus" or "buses" means and includes all autobuses, of whatever size or configuration, under the jurisdiction of the Motor Vehicle Commission excluding all autobuses of NJ Transit and its contract carriers which are under the inspection jurisdiction of the Commission; all autobuses, of whatever size or configuration, that are subject to Federal Motor Carrier Safety Regulations, 49 CFR Part 571, operated on public highways or in public places in this State; and all autobuses operated on public highways or in public places in this State under the authority of the Interstate Commerce Commission, or its successor agency, the Federal Highway Administration. The term "bus" or "buses" shall not include school buses, as defined pursuant to N.J.S.A. 39:1-1.

. . .

19:75-2.3 Routes of travel to and from casino hotels, Atlantic City Convention Hall (Boardwalk facility), the Atlantic City Rail Terminal/the new Atlantic City Convention Center/Sheraton Hotel, Atlantic City International Airport, Authority approved bus parking facilities, major tourist destinations, and other major traffic generators

(a)-(g) (No change.)

[(h) Routes to and from Sands Hotel and Casino-Atlantic City:

1. Arrival: Via the Atlantic City Expressway to Atlantic Avenue, left on Atlantic Avenue to Dr. Martin Luther King, Jr. Boulevard, right on Dr. Martin Luther King, Jr. Boulevard right in transportation center.

2. Departure: Via Dr. Martin Luther King, Jr. Boulevard to right on Pop Lloyd Boulevard, right on Indiana Avenue to Atlantic Avenue, right or left on Atlantic Avenue to Authority approved bus parking or left to Arkansas Avenue, right on Arkansas Avenue to the Atlantic City Expressway.]

Recodify existing (i)-(n) as **(h)-(m)** (No change in text.)

[(o)] **(n)** Routes to and from the Atlantic City Rail Terminal/the New Atlantic City Convention Center/Sheraton Hotel:

1.-4. (No change.)

[5. Sands:

i. Arrival: Via right on Dr. Martin Luther King, Jr. Boulevard to Pop Lloyd Boulevard, right on Pop Lloyd Boulevard to Indiana Avenue, right on Indiana Avenue to Atlantic Avenue, left on Atlantic Avenue to Michigan Avenue, right on Michigan Avenue to Ocean Way to facility.

ii. Departure: Via Ocean Way to Michigan Avenue, right on Michigan Avenue to Atlantic Avenue, left on Atlantic Avenue to Dr. Martin Luther King, Jr. Boulevard, right on Dr. Martin Luther King, Jr. Boulevard to load/unload area.]

Recodify existing 6. and 7. as **5. and 6.** (No change in text.)

Recodify existing (p)-(s) as **(o)-(r)** (No change in text.)

19:75-3.4 Certificates for approved facilities; general; renewals

(a) (No change.)

(b) Certificates for approved facilities shall be issued for a period of [three] **one** year[s].

(c)-(f) (No change.)

19:75-3.12 Permit and medallion fees

(a) The fee for a **single** permit shall be \$ 2.00 and shall be paid to the Authority by the bus owner/operator. **A processing fee shall be assessed for all bulk permit purchases as follows: two to 50 permits-\$ 3.00, 51 to 200 permits-\$ 5.00, 201 to 500 permits-\$ 10.00, and 501 permits and above-\$ 15.00.** [This] **These** fees may be adjusted annually by the Authority according to the percentage increase of the Consumer Price Index for the Philadelphia/New Jersey area for the preceding year, as determined by the Bureau of Labor Statistics. Payment of the permit fee shall be for each such entry by any bus. Such adjustments shall be reflected in this section through a notice of administrative change published in the New Jersey Register.

(b) Fees for medallions shall be:

[1. For each annual single bus medallion, \$ 600.00 for the effective year from October 1, 2004 through September 30, 2005, \$ 650.00 for the effective year from

October 1, 2005 through September 30, 2006, and \$ 675.00 for the effective year from October 1, 2006 through September 30, 2007 and for each effective year thereafter.]

1. For each annual single bus medallion, \$ 775.00 for the effective year from October 1, 2009 through September 30, 2010, \$ 800.00 for the effective year from October 1, 2010 through September 30, 2011, \$ 825.00 for the effective year from October 1, 2011 through September 30, 2012, \$ 850.00 for the effective year from October 1, 2012 through September 30, 2013 and \$ 875.00 from the effective year [page=2457] from October 1, 2013 through September 30, 2014 and for each effective year thereafter.

[2. For each annual fleet medallion, \$ 33,500 for the effective year from October 1, 2004 through September 30, 2005, \$ 37,000 for the effective year from October 1, 2005 through September 30, 2006 and \$ 40,500 for the effective year from October 1, 2006 through September 30, 2007 and for each effective year thereafter.]

2. For each annual fleet medallion, \$ 41,500 for the effective year from October 1, 2009 through September 30, 2010, \$ 42,500 for the effective year from October 1, 2010 through September 30, 2011, \$ 43,500 for the effective year from October 1, 2011 through September 30, 2012, and \$ 44,500 for the effective year from October 1, 2012 through September 30, 2013 and for each effective year thereafter.

(c) (No change.)