

CHAPTER 39

UNUSUAL OR DISASTER MAINTENANCE

Authority

Unless otherwise expressly noted, all provisions of this Chapter 39 were adopted by the Commissioner of Transportation, pursuant to authority delegated at N.J.S.A. 27:7, and were filed and became effective prior to September 1, 1969.

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SUBCHAPTER 1. RESPONSIBILITY FOR DAMAGE

16:39-1.1 Utility failures

Utility owners are responsible for any damage done to State property as a result of the failure of their utilities.

SUBCHAPTER 2. OBSTRUCTIONS TO MAINTENANCE OPERATIONS

16:39-2.1 Definitions

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

"Shoulder area" means that portion of the highway, exclusive of and bordering the roadway, designed for emergency use but not ordinarily to be used for vehicular travel.

"Median" means that portion of a divided highway separating the traveled ways of traffic proceeding in opposite directions.

"Undeveloped sidewalk berm" means that area between the curb line or edge of the shoulder and right-of-way line normally used by pedestrians but not improved by the construction of a concrete or bituminous walkway.

16:39-2.2 Removal of unoccupied or disabled vehicles from State highways

(a) If an officer or employee of the Department of Transportation observes or receives notification of an unoccupied or disabled motor vehicle or other object of any nature which is standing wholly or partially upon the traveled portion of a State highway and constitutes a hazard to traffic or will hamper snow removal or interfere with other maintenance operations, he shall transmit such information to the local police department and request that they arrange to have the vehicle or object removed as soon as possible.

(b) If the request submitted to the police department does not result in the removal of the vehicle and the maintenance operations can be delayed no longer, the Department officer or employee may cause the removal of the vehicle utilizing Department of Transportation forces and equipment. The vehicle or object shall be moved to the nearest practicable shoulder area, median or undeveloped sidewalk berm so that the required work can be accomplished. The police shall then be notified that Department forces have performed the removal and their assistance is no longer required.

(c) The Department of Transportation shall maintain a permanent record for each vehicle or object removed, which shall indicate the name of the person ordering the removal, the date and time of day and the make and license number of the vehicle, or additional information sufficient to identify the object if other than a motor vehicle was removed.

(d) During a major snowstorm, innumerable unoccupied or disabled vehicles may obstruct the roadway so as to make the requirements indicated in subsection (a) of this Section impractical. Under such conditions, subsection (a) of this Section may be waived.

R.1971 d.156, effective August 31, 1972.
See: 3 N.J.R. 137(a), 3 N.J.R. 207(b).

SUBCHAPTER 3. SPILLED CARGO ON STATE HIGHWAYS

Authority

Unless otherwise expressly noted, all provisions of this Subchapter were adopted pursuant to authority delegated at N.J.S.A. 27:7-11 and were filed and became effective April 23, 1974, as R.1974 d.101.
See: 6 N.J.R. 83(b), 6 N.J.R. 203(c).

16:39-3.1 Removal of spilled cargo from State highways

(a) If maintenance supervisory personnel of the Department of Transportation are notified by the State or local police or by units within the Department, or if maintenance supervisory personnel are aware of spilled cargo on the roadway as a result of an accident or mishap, maintenance forces shall as soon as conditions permit, remove the material from the traveled roadway in the interest of preventing future accidents.

(b) The district superintendent, maintenance and operations of the Department of Transportation shall immediately notify the owner or carrier of the whereabouts of the cargo which had been spilled, except in those cases where the Department of Transportation has no responsibility for the cargo because of its being considered extremely dangerous. This notification relieves the Department of Transportation of any liability as by this action the Department has not disregarded the rights of the owner.

(c) Under no circumstances will the carrier or owner of the spilled cargo be billed for services rendered. However, the Department can be reimbursed for expenses incurred in repairing damage to State property.

16:39-3.2 Conditions for storage of spilled cargo

(a) Material which is of a bulk nature may be stored off the traveled roadway providing there is sufficient space and it will not present a hazard to the public.

(b) When material cannot be stored adjacent to the roadway, it shall be taken to a Department of Transportation maintenance yard facility and covered with tarpaulin, if available.

(c) For material which is of a viscous nature the appropriate action shall be taken to make the roadway safe for travel.

16:39-3.3 Responsibility for removal of cargo considered to be extremely dangerous

(a) For material that is considered to be extremely dangerous, personnel of the Department of Transportation are not allowed to touch it. The responsibility for notifying the proper authorities rests with the State or local police.

(b) Maintenance forces of the Department of Transportation shall cooperate with authorities and police to provide the type of safety precautions required to insure normal traffic flow until proper removal is affected.

16:39-3.4 Refusal by carrier or owner to remove his property within 72 hours

(a) The district maintenance and operations, as deemed necessary, shall contact the section chief, legal services, requesting that he prepare for seeking a mandatory injunction should a carrier or owner refuse to remove his property within 72 hours.

(b) If a carrier or owner refuses to remove his property the Attorney General will seek a mandatory injunction to force the removal of objects that only the carrier or owner is equipped to relocate.