

**CHAPTER 25  
UTILITY ACCOMMODATION**

**Authority**

N.J.S.A. 27:1A-5, 27:1A-6, 27:1A-13, 27:7-19, 40:62-35, 65 and 134; 48:7-1; 48:7-2 et seq.; 48:9-17 and 25.4; 48:13-10; 48:17-8 and 16; and 48:19-17.

**Source and Effective Date**

R.1993 d.433, effective August 9, 1993.  
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 25, Utility Accommodation, expires on August 9, 1998.

**Chapter Historical Note**

Chapter 25, Utility Accommodation, was adopted effective July 27, 1973 as R.1973 d.205. See: 5 N.J.R. 57(b), 5 N.J.R. 292(c).

1979 Revisions: Amendments to 12.1 became effective February 5, 1979 as R.1979 d.43. See: 11 N.J.R. 148(e). 1983 Revisions: Subchapter 13. Grade Crossing and Bridge Cases became effective March 7, 1983 as R.1983 d.45. See: 14 N.J.R. 1197(a), 15 N.J.R. 341(a).

Pursuant to Executive Order No. 66(1978), Chapter 25 expired on February 5, 1984. A new Chapter 25 was adopted effective August 15, 1988 as R.1988 d.216. See: 19 N.J.R. 1064(a), 20 N.J.R. 2074(a). Subchapters 7A and 13 were adopted as R.1990 d.53, effective February 5, 1990. See: 21 N.J.R. 2234(b), 22 N.J.R. 359(a).

Pursuant to Executive Order No. 66(1978), Chapter 25 was readopted as R.1993 d.433. See: Source and Effective Date. Subchapter 8, Irrigation and Drainage Pipes, Ditches, and Canals, was repealed by R.1993 d.433, effective September 7, 1993. See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a). See, also, section annotations for specific rulemaking activity.

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## SUBCHAPTER 1. GENERAL PROVISIONS

## 16:25-1.1 Definitions

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

“Arterial Highway” means a highway primarily for through traffic, usually on a continuous route.

“Average Daily Traffic” means average 24-hour volume, being the total volume during a stated period divided by the number of days in that period. Unless otherwise stated, the period is a year. The term is commonly abbreviated as ADT.

“Backfill” means replacement of suitable material around and over a pipe or conduit system.

“Bedding” means organization of soil or other suitable material to support a pipe or conduit system.

“Bury or Cover” means depth of top of pipe or conduit system below grade of roadway or ditch.

“Cap” means rigid structural element surmounting a pipe or conduit system.

“Carrier” means pipe directly enclosing a transmitted fluid (liquid or gas).

“Casing” means a larger pipe enclosing a carrier.

“Clear Zone Area” means that roadside border area, starting at the edge of the traveled way, available for safe use by errant vehicles.

“Coating” means material applied to, or wrapped around a pipe.

“Conventional Highway” means an arterial highway without access control.

“Conduit or Duct” means an enclosed tubular runway for protecting wires or cables.

“Control of Access” means the condition where the right of owners or occupants of abutting land or other persons to access, light, air, or view in connection with a highway is fully or partially controlled by State.

“Control of Access—Full” means the authority to control access is exercised to give preference to through traffic by providing access connections with selected public roads only by prohibiting crossings at grade or direct private driveway connections.

“Control of Access—Partial” means the authority to control access is exercised to give preference to through traffic to a degree that, in addition to access connections with selected public roads, there may be some crossings at grade and some private driveway connections.

“Cradle” means rigid structural element below and supporting a pipe.

“Department” means New Jersey Department of Transportation.

“Direct Burial” means installing a utility underground without encasement.

“Drain” means appurtenance to discharge liquid contaminants from casings.

“Encasement” means structural element surrounding a pipe.

“Encroachment” means unauthorized use of highway right-of-way or easements as for signs, fences, buildings, etc.

“Expressway” means a divided arterial highway for through traffic with full or partial control of access and generally with grade separations at major intersections.

“Fiber-optic cable” means a communication cable utilizing hair-thin strands of ultra-pure glass, plastic or other transparent material that can carry high volumes of information via lightwave signals.

“Fiber-optic system” means a utility facility consisting of either:

1. One four-inch galvanized steel or PVC pipe or other approved encasement containing four each 1¼-inch PVC innerducts, buried directly in the ground (hereinafter referred to as a multi-duct system); or

2. Four each of two-inch galvanized steel or PVC pipes or other approved encasements, each pipe limited to use by one fiber-optic cable, buried directly in the ground (hereinafter referred to as a single-duct system).

“Flexible Pipe” means a plastic fiberglass, or metallic pipe having large ratio of diameter to wall thickness which can be deformed without undue stress.

“Freeway” means an expressway with full control of access.

“Frontage Road” means a local street or road auxiliary to and located on the side of an arterial highway for service to abutting property and adjacent areas and for control of access.

“Gallery” means an underpass for two or more utility facilities.

“Grounded” means connected to earth or to some extended conducting body which serves instead of the earth whether the connection is intentional or accidental.

“Grout” means a cement mortar or a slurry of fine sand or clay.

“Handhole” means a small chamber four feet by four feet which:

1. Provides access to a splice enclosure;
2. Is placed periodically along a conduit structure to provide smooth safe cable installation; or
3. Stores excess cable for maintenance purposes.

“Highway, Street or Road” means a general term denoting a public way for purposes of vehicular travel, including the entire area within the right-of-way.

“Jacket” means encasement by concrete poured around a pipe.

“Limited access highway” means a highway, especially designed for through traffic, over which abutting lot owners have no right to light, air, or direct access. Interstate highways, parkways, and freeways are considered limited access highways.

“Major Highway” means an arterial highway with intersections at grade and direct access to abutting property, and on which geometric design and traffic control measures are used to expedite the safe movement of through traffic.

“Manager, Bureau of Utility and Railroad Engineering” means the individual authorized by the Commissioner of the Department of Transportation to prepare utility agreements covering rearrangement and/or occupancy of State highways or freeways by utilities in connection with all roadway construction and/or improvement projects.

“Manhole Includes Chambers or Vaults” means an opening in an underground system which workmen or others may enter for the purpose of making installations, inspections, repairs, connections, and tests.

“Median” means the portion of a divided highway separating the traveled ways for traffic moving in opposite directions.

“Normal” means crossing at a right angle.

“Oblique” means crossing at an acute angle.

“Parkway” means an arterial highway for noncommercial traffic, with full or partial control of access, and usually located within a park or a ribbon of park-like developments.

“Pavement Structure” means the combination of subbase, base course, and the surface course placed on a subgrade to support the traffic load and distribute it to the roadbed.

“Permit” means the document by which the Commissioner of the Department of Transportation approves the use and occupancy of highway rights-of-way or property by any utility facility. Permits are not required where Utility Agreements are to be issued in connection with highway improvements.

“Pipe” means a tubular product made as a production item for sale as such. Cylinders formed from plate in the course of fabrication of auxiliary equipment are not pipe as defined herein.

“Pressure” means relative internal pressure in psig (pounds per square inch gauge).

“Private utilities” means utilities owned and operated by private citizens or concerns.

“Public utility” means and includes every individual, co-partnership, association, corporation or joint stock company, their lessees, trustees, or receivers appointed by any court, owning, operating, managing or controlling within the State of New Jersey a steam railroad, street railway, traction railway, canal, express, subway, pipe line, gas, electric, light, heat, power, water, oil, sewer, telephone, telegraph system, plant or equipment for public use under privileges granted by the State or by any political subdivision thereof. Although this chapter primarily concerns public utilities, private utilities may also, if installed in accordance with N.J.A.C. 16:25-11.3, occupy highway rights-of-way. The term utility(ies) when used herein is intended to reference both public and private utilities unless they are individually specified.

“Public Utility Agreement (P.U.A.)” means the document by which the Commissioner of Transportation, in connection with limited access highways enters into an agreement with a public utility, a utility not covered by N.J.S.A. Title 48, or a utility having compensable property rights as to the removal and/or relocation of its facilities. Also the document by which the Commissioner of the Department of Transportation, in connection with State highways (non-freeways or parkways) enters into an agreement with the owner of any utility type facility occupying State highway rights-of-way as to the removal and/or relocation thereof. The Agreement further serves as the permit to occupy highway rights-of-way and specifies the requirements for, and the conditions of said occupancy.

“Railroad at grade crossings” means crossings where the railroad track and the highway pavement intersect at the same vertical grade and provide for the operation of rail traffic crossing the highway as well as highway and pedestrian traffic crossing over the railroad track.

“Railroad grade separated crossings” means crossings where either the railroad or the highway is carried over or under the other.

“Regional Maintenance Office” means an office under the jurisdiction of the Executive Director of Regional Operations, Department of Transportation.

“Right-of-Way” means a general term denoting land, property, or interest therein, usually in a strip, acquired for or devoted to transportation purposes.

“Rigid Pipe” means pipe designed for diametric deflection of less than one percent.

“Roadside” means a general term denoting the area adjoining the outer edge of the roadway. Extensive areas between the roadways of a divided highway may also be considered roadside.

“Roadway” means the portion of a highway, including shoulders, for vehicular use. A divided highway has two or more roadways.

“Safety Rest Areas” means a roadside area with parking facilities separated from the roadway provided for motorists to stop and rest for short periods. It may include drinking water, toilets, tables and benches, telephone, information, and other facilities for travelers.

“Scenic Overlook” means a roadside area provided for motorists to stop their vehicle beyond the shoulder, primarily for viewing the scenery in safety.

“Semi-rigid Pipe” means pipe designed to tolerate diametric deflection from 1.0 percent to 3.0 percent.

“Sidefill” means backfill around and to a level of one foot over a pipe or conduit system.

“Slab, Floating” means slab between, but not contacting pipe or pavement.

“Sleeve” means short casing through pier or abutment of a highway structure.

“Traveled Way” means the portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

“Trenched” means installed in a narrow open excavation.

“Untrenched” means installed without breaking ground or pavement surface, such as by jacking or boring.

“Vent” means appurtenance to discharge gaseous contaminants from a casing.

“Walled” means partially encased by concrete poured alongside the pipe.

Amended by R.1990 d.53, effective February 5, 1990.

See: 21 N.J.R. 2234(b), 22 N.J.R. 359(a).

Added definitions of “fiber-optic cable”, “fiber-optic system”, “handhole” and “limited access highways”.

Amended by R.1992 d.194, effective May 4, 1992.

See: 23 N.J.R. 3739(c), 24 N.J.R. 1801(b).

Revised definitions “fiber optic cable” and “fiber optic system”.

Amended by R.1993 d.433, effective September 7, 1993.

See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

### 16:25-1.2 Rights-of-way

(a) In the State of New Jersey public utilities have the right by franchise, to occupy highway rights-of-way. The Commissioner of Transportation has the right, by law, to regulate and control the manner in which such occupancy shall be accomplished.

(b) The rules contained in this chapter formally establish the criteria used by the Commissioner of Transportation in controlling the use of rights-of-way of State highways, parkways and freeways.

Amended by R.1993 d.433, effective September 7, 1993.

See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

### Case Notes

Department of Transportation found primarily responsible for ensuring appropriate safety standards are satisfied by facilities installed in highway rights of way. *Ball v. New Jersey Bell Telephone Co.*, 207 N.J.Super. 100, 504 A.2d 29 (App.Div.1986), certification denied 104 N.J. 383, 517 A.2d 391 (1986).

### 16:25-1.3 Applicability

The rules contained in this chapter apply to all utilities, including electric power, telephone, telegraph, cable television, water, gas, oil, petroleum products, steam, chemicals, sewage, and similar facilities that are to be located, adjusted, or relocated within the rights-of-way under the auspices of the New Jersey Department of Transportation. Such utilities may involve underground, surface, or overhead facilities, either singularly or in combination.

Amended by R.1993 d.433, effective September 7, 1993.

See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

### 16:25-1.4 Scope

(a) The rules in this chapter are provided for use in regulating the location, design, and methods for installing, adjusting, accommodating, and maintaining utilities on highway rights-of-way. The rules do not alter current rules, regulations or authority for installing utilities nor for determining financial responsibility for replacing or adjusting utilities. The rules are limited to matters which are the responsibility of highway authorities for preserving the integrity of the highway and its safe operation.

(b) Where laws or orders of public authority, industry or governmental codes, or highway authorities prescribe a higher degree of protection than provided by these rules, then the higher degree of protection shall prevail.

#### Case Notes

Department of Transportation found primarily responsible for ensuring appropriate safety standards are satisfied by facilities installed in highway rights of way. *Ball v. New Jersey Bell Telephone Co.*, 207 N.J.Super. 100, 504 A.2d 29 (App.Div.1986), certification denied 104 N.J. 383, 517 A.2d 391 (1986).

#### 16:25-1.5 Standards and references

(a) Utility facility design and construction are normally subject to minimum safety standards and construction requirements prescribed by the respective National or Industry Standard Codes. Reference in these rules to such Codes are to the current or amended issue of the respective Code, and may vary from time to time as such Codes are amended, revised, or superseded by later rules or regulations.

(b) In the absence of applicable National, State or Local Regulatory Agency Standard Codes (such as the National Electrical Safety Code of the National Bureau of Standards and the New Jersey Department of Health Code in their respective industries), the Industry Standard Code shall apply to all utility type facilities located on, over, under, or across highway right-of-way, except that the minimum applicable standards as set out in the current Standard Specifications of the New Jersey Department of Transportation,<sup>1</sup> The American Association of State Highway and Transportation Officials' Guide for Accommodating Utilities within Highway Right-of-Way<sup>2</sup> and currently applicable Federal Highway Regulations, shall apply in all instances where any such applicable highway specifications are more restrictive or require greater safety factors or require higher standards of construction, materials, or workmanship than the applicable National or Industry Standard Code.

Amended by R.1993 d.433, effective September 7, 1993.  
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

<sup>1</sup> Standard Specifications for Road and Bridge Construction. New Jersey Department of Transportation, 1983 as amended or superseded.

<sup>2</sup> Guide for Accommodating Utilities within Highway Right-of-Way, American Association of State Highway and Transportation Officials, 444 N. Capitol Street, N.W., Suite 225, Washington, D.C. 20001, 1981.

#### 16:25-1.6 Authority of utilities to use and occupy the rights-of-way of State highways (land service roads)

(a) The rights public utilities have in State highways are established by N.J.S.A. 48 and N.J.S.A. 40.

1. Where usage is permitted, the statutes typically provide that the public utility involved "may use the public highways, streets and alleys", subject to the consents for approvals as the statute may require. Included in this category are:

i. Electric companies—N.J.S.A. 48:7-1.2;

ii. Telephone companies—N.J.S.A. 48:17-8, 10;

iii. Telegraph poles—N.J.S.A. 48:17-16;

iv. Sewer lines—N.J.S.A. 48:13-10, 11;

v. Water lines—N.J.S.A. 48:19-17;

vi. Gas lines—N.J.S.A. 48:9-17, 25.4.

vii. Electric poles—N.J.S.A. 40:62-35;

viii. Water lines—N.J.S.A. 40:62-134 and 40:178-40.

#### 16:25-1.7 Limited access highways

(a) The usage granting statutes discussed in N.J.A.C. 16:25-1.6 apply only to conventional highways, and any usage of limited access highways right-of-way is subject to the discretion of the Commissioner of Transportation.

(b) The Department has excluded longitudinal facilities from limited access highway rights-of-ways, unless extreme cases of need can be demonstrated to the satisfaction of the Department and can further be shown to be in the best public interest, and the Department has established rules for crossings of such roads by utility facilities. Further, in addition to extreme need, the safety criteria enumerated in (d) below shall be met.

(c) The Department will take under consideration claims of extreme cases of need when a public utility can demonstrate that alternate locations are not available or cannot be implemented at reasonable cost, as determined by the Department, in consultation with the Federal Highway Administration (FHWA), from the standpoint of providing efficient public utility services in a manner conducive to safety, durability, and economy of maintenance and operations; that the accommodation will not adversely affect the design, construction, operation, maintenance, or stability of the limited access highways; that it will not interfere with or impair the present use or future expansion of the limited access highways; and that disapproval of the use of the right-of-way would result in the loss of productive agricultural land, or loss of productivity of agricultural land, if any.

(d) The Department's safety criteria are as follows:

1. The public utility facility shall be placed underground;

2. The public utility facility shall not be used for transmitting gases or liquids under pressure, or for the transmission of products which are flammable, corrosive, expansive, energized or unstable;

3. The public utility facility shall not emit any measurable radiation above the ground surface;

4. The public utility facility shall present no hazard to life, health or property, if it fails to function properly, is severed, or otherwise damaged; and

5. After the public utility facility is installed, it will be virtually maintenance free.

(e) Should the Department determine that an extreme case of need exists, that the issuance of a longitudinal occupancy permit is in the best public interest, and that the safety criteria can be met, the installation shall be made in accordance with the provisions as specifically outlined in N.J.A.C. 16:25-7A.

(f) If the Department finds that public utility projects for the installation of a fiber-optic cable or system meet the safety criteria established in (d) above, and if extreme cases of need are demonstrated, such projects will qualify for permit approval. The installation of a fiber-optic cable or system shall be in accordance with N.J.A.C. 16:25-7A.

(g) The Commissioner is authorized to order the removal and relocation of utility facilities from limited access highway right-of-way.

(h) Whenever a utility installation is permitted within the right-of-way of limited access highways, a utility access control line between the proposed utility installation and the through roadway and ramps will be specified in the permit.

Amended by R.1990 d.53, effective February 5, 1990.  
See: 21 N.J.R. 2234(b), 22 N.J.R. 359(a).

Procedures added for the consideration of claims of extreme need including safety criteria and added language regarding "limited access highways".

Amended by R.1992 d.194, effective May 4, 1992.  
See: 23 N.J.R. 3739(c), 24 N.J.R. 1801(b).

Revised (c); added (h).

Amended by R.1993 d.433, effective September 7, 1993.  
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

(d) The horizontal and vertical location of utility lines within the highway right-of-way limits must conform with the clear roadside policies applicable for the system, type of highway, and specific conditions for the particular highway section involved. The location of above ground utility facilities must be consistent with the clearances applicable to all roadside obstacles for the type of highway involved. With pole type facilities, where a guide rail is present, poles should always be located behind the guide rail allowing sufficient clear distance behind the guide rail for the guide rail's design deflection in accordance with N.J.A.C. 16:25-5.5.

(e) In all cases, full consideration must be given to the measures, reflecting sound engineering principles and economic factors necessary to preserve and protect the integrity and visual quality of the highway, its maintenance, efficiency and the safety of highway traffic.

(f) Utility crossings of freeways are to be held to a practical minimum and where permitted will meet all applicable provisions of these rules.

(g) The Department may allow a fiber-optic system to consist of more than four innerducts in the case of a multi-duct system, or more than four individual pipes in the case of a single-duct system, to be decided by the Department on a case-by-case basis.

Amended by R.1990 d.53, effective February 5, 1990.  
See: 21 N.J.R. 2234(b), 22 N.J.R. 359(a).

New (g) added upon adoption.  
Amended by R.1992 d.194, effective May 4, 1992.  
See: 23 N.J.R. 3739(c), 24 N.J.R. 1801(b).

Revised (g).  
Amended by R.1993 d.433, effective September 7, 1993.  
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

## SUBCHAPTER 2. GENERAL CONSIDERATIONS

### 16:25-2.1 Location of utility lines

(a) Utility lines installed within a highway right-of-way require a permit issued by the Department. A public utility agreement, as defined in this chapter with the Bureau of Utility and Railroad Engineering shall serve as a permit. Utility lines must be located to permit servicing such lines with minimum interference to highway traffic and to minimize need for later adjustments to accommodate future highway improvements.

(b) Longitudinal installations must be located on uniform alignment as near as practicable to the right-of-way line so as to provide a safe environment for traffic operation and preserve space for future highway improvements or other utility installations.

(c) To the extent feasible and practicable, utility line crossing of the highway should cross on a line generally normal to the highway alignment.

### 16:25-2.2 Design of utility facilities

(a) The utility shall be responsible for the design of the utility facility to be installed within the highway rights-of-way or attached to a highway structure.

(b) The Department shall be responsible for review and approval of the utility's proposal with respect to the location of the utility facilities to be installed and the manner of attachment. This includes the measures to be taken to preserve the safe and free flow of traffic, structural integrity of the roadway, maintenance, appearance of the highway, and the integrity of the utility facility.

(c) Utility installations on, over, or under the rights-of-way of State highways and utility attachments to highway structures must meet the following minimum requirements:

1. Electric power and communication facilities shall conform with the currently applicable National Electrical Safety Code <sup>1</sup>.

2. Water lines shall conform with the currently applicable specifications of the American Water Works Association<sup>2</sup>.

3. Pressure pipelines shall conform with the currently applicable sections of the Standard Code of Pressure Piping of the American National Standards Institute<sup>3</sup>; Title 49 CFR, Parts 192, 193, and 195; and applicable industry codes.

4. Liquid petroleum pipelines shall conform with the currently applicable recommended practice of the American Petroleum Institute for pipeline crossings under railroads and highways<sup>4</sup>.

5. Fiber-optic communication facilities installation standards shall conform with the currently applicable sections of the Standard Codes of the American National Standard Institute (ANSI)—E1A472-B, 472B-XX0, incorporated herein by reference.<sup>5</sup>

(d) Ground-mounted utility facilities shall be of a design compatible with the visual quality of the specific highway section being traversed.

(e) All utility installation on, over, or under highway rights-of-way and attachments to highway structures shall be of durable materials designed for long service life expectancy and relatively free from routine servicing and maintenance.

(f) On new installments or adjustments of existing utility lines, provision should be made for known or planned expansion of the utility facilities, particularly those located underground or attached to bridges. The utility lines shall be planned so as to minimize hazards and interference with highway traffic when additional overhead or underground lines are installed at some future date.

Amended by R.1990 d.53, effective February 5, 1990.

See: 21 N.J.R. 2234(b), 22 N.J.R. 359(a).

Incorporated by reference the Standard Codes of the American National Standards Institute at new (c)5.

Amended by R.1993 d.433, effective September 7, 1993.

See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

<sup>1</sup> National Electrical Safety Code, current issue, Bureau of Standards, U.S. Department of Commerce. (For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402).

<sup>2</sup> American Water Works Association Standards and Specifications, current issue, AWWA, 2 Park Avenue, New York, New York 10016.

<sup>3</sup> ANSI Standard Code for Pressure Piping of the American National Standards Institute, 1430 Broadway, New York, New York 10018

<sup>4</sup> API RP 1102, Recommended Practice for Liquid Petroleum Pipelines Crossing Railroads and Highways, current issue, American Petroleum Institute, 1271 Avenue of the Americas, New York, New York 10020

<sup>5</sup> ANSI Standard Code for Fiber-Optic Facilities E1A472-B, 472B-XX0 of the American National Standards Institute, 1430 Broadway, New York, New York 10018.

#### Case Notes

Department of Transportation found primarily responsible for ensuring appropriate safety standards are satisfied by facilities installed in highway rights of way. *Ball v. New Jersey Bell Telephone Co.*, 207

N.J.Super. 100, 504 A.2d 29 (App.Div.1986), certification denied 104 N.J. 383, 517 A.2d 391 (1986).

#### 16:25-2.3 Waivers

(a) No waivers or other relief from design standards or other provisions of N.J.A.C. 16:25-3.5 may be granted unless the waiver can be granted without substantial detriment to the safety and operation of the highway and without substantially impairing the intent and purpose of this chapter.

(b) If an applicant wishes to seek a waiver, a request must be submitted to the Department as an attachment to the permit application. The request for waiver shall state reasons why a waiver is appropriate and include documentation to support the waiver.

(c) If a waiver is granted, the approval will be incorporated in the conditions of the permit or agreement.

New Rule, R.1993 d.433, effective September 7, 1993.

See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

### SUBCHAPTER 3. PIPELINES

#### 16:25-3.1 Location and alignment

(a) For all crossings, the angle of crossing should be based on economic considerations of practical alternates. The crossing shall be located as near normal to the highway alignment as practical.

(b) Conditions which are generally unsuitable or undesirable for pipeline crossing should be avoided. These include locations such as:

1. In deep cuts;
2. Near footings of bridges and retaining walls;
3. Across intersections at grade or ramp terminals;
4. At cross drains where flow of water, drift, or stream bedload may be obstructed;
5. Within basins of an underpass drained by a pump if pipeline carries a liquid or a liquified gas;
6. In wet or rocky terrain where it would be difficult to attain minimum bury.

(c) On longitudinal installations, utility locations parallel to the pavement at or adjacent to the right-of-way line are preferable so as to minimize interference with highway drainage, the structural integrity of the traveled way, shoulders, and embankment; and the safe operation of the highway. As a minimum, their lateral location shall be offset a suitable distance beyond the slope, ditch, or curb line, as the Department may stipulate.

(d) Vertical and horizontal clearance between a pipeline and a structure or other highway or utility facilities should be sufficient to permit maintenance of the pipeline and the other facilities.

(e) The locations of all pipelines will be reviewed by the Department to ensure that the proposed utility installation will not interfere with existing or planned highway facilities or with highway maintenance and operation processes.

### 16:25-3.2 Bury

(a) The critical controls for bury over a pipeline crossing are the low points in the highway cross-section. Usually these are the bottoms of the longitudinal ditches.

(b) In establishing the bury below an unpaved ditch, consideration should be given to potential increases in ditch depth resulting from scour, ditch maintenance operations, or the need to increase the capacity of the ditch.

(c) On longitudinal installations, the critical controls for bury are the depths of lateral drainage facilities, landscaping, buried utility lines, bridge structures, and likely highway maintenance operations.

(d) The depth of frost penetration should be taken into consideration in determining the bury. The bury shall be sufficient so that the liquid transmitted will not freeze. In addition, the depth shall be sufficient to withstand the greatly increased impact loads transmitted through the frozen soil.

### 16:25-3.3 Controls for the bury of pipelines

(a) The bury over pipelines will be at a minimum of 36 inches; however, special consideration shall be given on the basis of engineering and safety factors for the area, the product carried, and maximum working or test pressures for the pipelines before varying from minimum depth.

(b) Pipelines will be designed, installed and tested in accordance with the Minimum Federal Safety Standards of the U.S. Department of Transportation as published in Part 192 of Title 49, Code of Federal Regulations, and any amendments thereof.

(c) Where less than minimum bury is made necessary because of other utilities, water table, ordinances, or similar reasons, the pipe should be rerouted or else protected in a suitable manner.

(d) Cover for pipelines carrying transmittants which are flammable, corrosive, expansive, energized, or unstable particularly if carried at high pressure or potential, must not be reduced below acceptable safety limits.

### 16:25-3.4 (Reserved)

Repealed by R.1993 d.433, effective September 7, 1993.  
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

Section was "Encasement and allied mechanical protection generally".

### 16:25-3.5 Encasement

(a) Casing shall be required for the following conditions:

1. As an expediency in the insertion, removal, replacement or maintenance of carrier pipe crossings or free-ways, expressways, and other controlled access highways and at other locations where it is necessary in order to avoid open trenched construction;

2. As protection for carrier pipe from external loads or shock, either during or after construction of the highway;

3. As a means of conveying leaking fluids or gases away from the area directly beneath the traveled way to a point of venting at or near the right-of-way line or to a point of drainage in the highway ditch or a natural drainage way.

(b) Jacked or bored installations of coated carrier pipes must normally be encased. Exceptions may be made where assurance can be provided against damage to the protective coating.

(c) Consideration shall be given to encasement or other suitable protection for any pipeline:

1. With less than minimum bury;

2. Near footings or bridges or other highway structures or across unstable or subsiding ground;

3. Near other locations where there may be a hazard.

(d) Rigid encasement or suitable bridging shall be used where support of pavement would be impaired by depression of flexible carrier pipe.

(e) Casings when utilized shall be designed to support the load of the highway and superimposed loads thereon and, as a minimum, shall equal the structural requirements for highway drainage facilities. Casings shall be composed of materials of satisfactory durability under conditions to which they may be exposed.

(f) Where pipelines are encased, the encasement shall extend a suitable distance beyond the slope or ditch lines. Where appropriate, the encasement shall extend to the access control lines, to the outside of frontage roads, or to an indicated line that allows for future widening of the highway.

(g) Casing pipe when utilized shall be sealed at the ends with a flexible material to prevent flowing water and debris from entering the annular space between the casing and the carrier. The installations should include necessary appurtenances, such as vents and markers.

Amended by R.1993 d.433, effective September 7, 1993.  
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

**16:25-3.6 Allied mechanical protection**

(a) When a waiver is granted for non-encasement, installation shall be limited to open trenched construction. The following controls shall be applied for providing allied mechanical protection to an uncased pipeline crossing a highway.

1. On uncased construction, the carrier pipe shall conform to the material and design requirements of utility industry and governmental codes and specifications. In addition, the carrier pipe shall be designed to support the load of the highway plus superimposed loads thereon when the pipe is operated under all ranges of pressure from maximum internal to zero pressure. Such installations shall employ a higher factor of safety in the design, construction and testing than would normally be required for cased construction.

2. Suitable bridging, concrete slabs or other appropriate measures shall be used to protect existing uncased pipelines which by reason of shallow bury or location make them vulnerable to damage from highway construction or maintenance operations. Such existing lines may remain in place without further protective measures if they are of adequate depth and do not conflict with the highway construction or maintenance operations, provided both highway and utility officials are satisfied that the lines are, and will remain, structurally sound and operationally safe.

3. Uncased crossings of welded steel pipelines carrying transmittants which are flammable, corrosive, expansive, energized, or unstable, particularly if carried at high pressure or potential, may be permitted, provided additional protective measures are taken in lieu of encasement. Such measures would employ a higher factor of safety in the design, construction and testing of the uncased carrier pipe, including such features as thicker wall pipe, radiograph testing of welds, hydrostatic testing, coating and wrapping and cathodic protection.

Amended by R.1993 d.433, effective September 7, 1993.  
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

**16:25-3.7 Appurtenances**

(a) Vents, drains, markers, manholes, and shut-offs are appurtenances to pipeline installations. Required controls for such appurtenances are as follows:

1. Vents are appurtenances by which fluids or gases between carrier and casing may be inspected, samples exhausted, or evacuated. These fluids or gases may be leakage from the carrier within or the soil without, or atmospheric vapor and condensate, or decomposition products of pipes and coatings. Light gases are exhausted through risers or standpipes projecting above the ground surface. Vent standpipes shall be located and constructed so as not to interfere with maintenance of the highway nor to be concealed by vegetation; normally they should stand on a fence or right-of-way line.

2. Drains are appurtenances by which liquids or heavy gases may be evacuated or exhausted. They shall be provided for casings, tunnels, or galleries enclosing carriers of liquid, liquified gas, or heavy gas. Drains will not outfall into roadside ditches or natural water courses.

3. The utility shall place readily identifiable and suitable markers on the right-of-way line where it is crossed by pipelines carrying transmittants which are flammable, corrosive, expansive, energized or unstable, particularly if carried at high pressure or potential, except where a vent will serve as a marker. Markers are also desirable for other pipelines.

4. New manholes shall normally not be located in the pavement of major highways, including urban highways. Exception may be made at those locations where manholes are essential parts of existing lines that are permitted to remain in place under existing and proposed roadways provided the installations are designed to support highway traffic and are approved by the Department in accordance with N.J.A.C. 16:41 and 16:47. Manholes may be retained or installed under paving on low traffic roadways, less than 750 ADT, within municipalities. Effort should be made to minimize such installations and to avoid their location at street intersections, insofar as practicable. Manholes shall be designed and located in such a manner that will cause the least interference to other utilities and future highway expansion.

5. Shut-off valves, preferably automatic, shall be installed in lines at or near ends of structures and near unusual hazards, unless hazardous segments can be isolated by other sectionalizing devices within a reasonable distance.

Amended by R.1993 d.433, effective September 7, 1993.  
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

**16:25-3.8 Restriction against varied use**

(a) The following precautionary measures are required for pipeline installations:

1. Pipeline installation permits shall specify the class of transmittant, the maximum working, test, or design pressures, and the design standards for the carrier.

2. When it is anticipated that there will be a change in the class of transmittant or an increase in the maximum design pressure specified in the permit, the utility will be required to give the Department, through the Regional Maintenance Office, advance notice and obtain approval for such changes. The notice should specify the applicable codes to be used.

**16:25-3.9 Installation**

Installation or replacement of pipelines along or crossing existing highways shall be controlled by end-product specifications. However, safety of traffic and preservation of the earth structure supporting the pavement requires some restriction of methods used in the operation. Conditions of installation, if any, will be specified in the permit. Several acceptable methods of installation are detailed in N.J.A.C. 16:25-3.10, 3.11, and 3.12.

Amended by R.1993 d.433, effective September 7, 1993.  
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

**16:25-3.10 Trenched construction and backfill**

(a) The essential features for trench and backfill are as follows:

1. Restoration of the structural integrity of entrenched roadbed;
2. Security of the pipe against deformation likely to cause leakage;
3. Assurance against the trench becoming a drainage channel;
4. Assurance against drainage being blocked by the backfill.

(b) The integrity of the pavement structure, shoulders, and embankment slopes are of primary concern. Details of specifications should recognize differences in climate and soil.

(c) Trenched construction, bedding and backfill are required to conform to the Department's standard specifications for earthwork and culverts. The use and occupancy agreement should include the following:

1. Trenches shall be cut to have vertical faces, where soil and depth conditions permit, with a maximum width of outside diameter of pipe, plus two feet. They shall be shored where required.
2. Bedding shall be provided to a depth of six inches or half the diameter of the pipe, whichever is the least. Bedding shall consist of granular material, free of lumps, clods, stones, and frozen materials and should be graded to a firm but yielding surface without abrupt change in bearing value. Unstable soils and rock ledges shall be subexcavated from the bedding zone and replaced by suitable material. The bottom of the trench shall be prepared to provide the pipe with uniform bedding throughout the length of the installation.
3. Backfill under the roadway shall be placed in two stages: first, sidefill to a level of one foot above the top of pipe or conduit system, and second, to former surface grade. Sidefill should consist of granular material laid in six-inch layers, each consolidated by mechanical tamping controlled addition of moisture, to a density of 95 percent as determined by AASHTO Method T-99. Backfill should be layered and consolidated to match the entrenched material in cohesion and compaction. Consolidation by saturation or ponding will not be permitted. For backfill of entrenched pavement, materials and methods of compaction shall be adapted to achieve prompt restoration of traffic service. There shall be additional cutback of base and surfacing and transition of trench to minimize later development of sag in the grade of pavement over the trench.

4. The Department shall require that backfill and repaving be performed under its direction utilizing specifications acceptable to the Department.

**16:25-3.11 Untrenched construction and grouting**

(a) Several techniques acceptable to the Department for installing pipelines under a highway without disturbing the surface are as follows:

1. **Driving:** A small pipe with a pilot shoe can be driven through compressible soils by a steady thrust, hammering, or vibrating. A casing or corrosion resistant carrier must be used. Long drives may wander far from the desired line and grade.
2. **Coring:** A small casing without pilot shoe can be drilled into more difficult soil, which enters the pipe as it advances. The core is removed by sluicing, during or after the drilling. Line and grade are fairly easy to control.
3. **Boring:** Large pipes can be jacked through oversize bores carved progressively ahead of the leading edge of the advancing pipe as spoil is mucked back through the pipe. Control is excellent. Cutterhead should be sized closely to pipe diameter and pipe should be advanced, with cutterhead in close proximity, to minimize annual void and overbreaks.
4. **Wet-boring:** A hole is sluiced by a jet of slurry and kept full of pressured slurry to prevent collapse. The pipe is pushed through the slurry, evacuating the excess. Coated pipes may be installed without damage, but some soils may soften, expand, or disintegrate from transfer of moisture from the slurry. This method shall be prohibited on major highways unless authorized by the Department. Special care and permission of the Department will be required when using this method elsewhere.

(b) The required controls for untrenched construction and grouting are as follows:

1. Untrenched construction will be required for all new or replacement pipeline crossings of controlled access and other major highways. On controlled access highways, as a minimum, the untrenched construction shall extend under and across the entire roadway prism. On the other major highways, the untrenched construction shall extend under and across the surfaced area of the highway.
2. Portal limits of pipeline crossings shall be beyond the surface areas of the highway so as to avoid impairing the roadway during installation of the pipeline. Where bulkheaded, the portal should be suitably offset from the surfaced area of the highway: where not bulkheaded, it should be offset not less than the vertical difference in elevation between the surfaced area of the highway and the pipeline.

3. The oversize of the boring excavation shall be restricted and the Department shall establish, case by case, the conditions specified under which the void outside the carrier must be back-filled with grout. Where the soils are favorable and the carrier is four feet or more deep, the boring hole may be five percent oversize in diameter. The Department shall require grout backfill for pipes more than 12 inches in diameter for overbreaks, unused holes, or abandoned pipes.

Amended by R.1993 d.433, effective September 7, 1993.  
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

#### 16:25-3.12 Utility tunnels and bridges

(a) A utility tunnel or a bridge occasionally is provided for a pipeline crossing a freeway at a strategic location. Where it can be foreseen that several utility crossings will be needed the cost of the tunnel (either a large casing or a box culvert) or of the bridge may be less than that for the alternate of several untrenched or separately encased pipelines. Where these conditions exist the Department will take steps as necessary to insure that adequate study is made by the utilities to anticipate their needs for future crossings and to converge their facilities to a joint use single crossing.

(b) In a combined tunnel or bridge, provision shall be made to isolate mutually hazardous transmittants, such as fuels and electric energy, by compartmentalizing or by auxiliary encasement of incompatible carriers. The utility-tunnel or utility-bridge structure shall conform in appearance, location, bury, earthwork, and markers to culvert and bridge practice of the Department.

#### 16:25-3.13 Adjustment

(a) The following are required controls for adjusting existing pipelines that fall in the path of highway construction projects:

1. An existing or relocated pipeline shall be protected in such a manner as normally would be required for a new pipeline at the site.
2. An existing pipeline shall be relocated in plan and/or grade where:
  - i. The pipe bedding will be depressed by highway loads; or
  - ii. The top of the pipe is within 18 inches of sub-grade or determined to be too close to highway grade.
3. An existing pipeline too weak to support highway loads shall be replaced by stronger pipe or protected in such a manner acceptable to both the Department and the utility.
4. An existing pipeline which would lack adequate cover for protection against vehicular live loads or highway construction operations may be protected by a floating slab.

5. Notwithstanding reinforcement or protection otherwise provided, the highway construction contractor should be warned and made responsible for the security of each existing pipeline within the construction zone. Where there are unusual utility hazards and where heavy construction equipment will be needed, it should be arranged that the contractor provide a temporary protective cover of each or bridge the utility.

Amended by R.1993 d.433, effective September 7, 1993.  
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

### SUBCHAPTER 4. INSTALLATION ON HIGHWAY STRUCTURES

#### 16:25-4.1 General considerations

(a) In most cases, attachment of utility facilities to highway structures, such as bridges, is a practical arrangement and considered to be in the public interest. However, attaching utility lines to a highway structure can materially affect the structure, the safe operation of traffic, the efficiency of maintenance as well as the appearance and therefore should be provided for during the design stage.

(b) Since highway structure designs and site conditions vary, the adoption of a standard method to accommodate utility facilities is not feasible; however, the method employed should conform to logical engineering considerations for preserving the highway, its safe operation, maintenance and appearance. Generally, acceptable utility installations are those which will occupy a position beneath the structure's floor, between the outer girders or beams or within a cell, and at an elevation above low point of super-structure steel or masonry.

(c) The general controls for providing encasement, allied mechanical protection and shut-off valves to pipeline crossings of highways and for restriction against varied use shall be followed for pipeline attachments to bridge structures, except that sleeves are required only through the abutment backwalls. Where a pipeline attachment to a bridge is encased, the casing should be effectively opened or vented at each end to prevent possible buildup of pressure and to detect leakage of gases or fluids.

(d) Since an encasement is not normally provided for a pipeline attachment to a bridge, additional protective measures shall be taken. Such measures shall employ a higher factor of safety in the design, construction, and testing of the pipeline than would normally be required for cased construction.

(e) Communication and electric power line attachments shall be suitably insulated, grounded, and carried in protective conduit or pipe from the point of exit from the ground to re-entry. The cable shall be carried to a manhole located

beyond the backwall of the structure. Carrier pipe and casing pipe should be suitably insulated from electric power line attachments.

(f) Guy wires in support of any utility shall not be attached to a bridge structure.

Amended by R.1993 d.433, effective September 7, 1993.  
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

**SUBCHAPTER 5. OVERHEAD POWER AND COMMUNICATION LINES**

**16:25-5.1 General**

(a) The type of construction, vertical clearance above pavement, and location of poles, guys, and related ground-mounted utility appurtenances along the roadside are factors of major importance to preserve a safe traffic environment, the appearance of the highway, and the efficiency and economy of highway maintenance. A critical requirement for locating poles, guys and related facilities along the roadside is the width of the border area, that is, the space between the edge of shoulder or curb line and the right-of-way line, and its availability and suitability for accommodating such facilities. The safety, maintenance efficiency, and appearance of highways are enhanced by keeping this space as free as practical from obstacles above the ground. Where groundmounted utility facilities are to occupy this space, they should be placed as far as practical from the traveled way and beyond the clear roadside area. The nature and extent of roadside development and the ruggedness of the terrain being traversed are controlling factors for locating poles, guys and related facilities at the right-of-way line.

(b) In an effort to provide a safer environment for the traveling public and to improve the aesthetic qualities of newly designed freeways and land service roadways, above ground utilities are restricted in certain locations as follows:

1. No above ground facilities will be located within grade separated interchange areas of limited access highways.
2. No aerial crossing of limited access highway rights-of-way are permitted with the exception of electrical facilities operating at a potential of 26 KV or above.

Amended by R.1993 d.433, effective September 7, 1993.  
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

**16:25-5.2 Type of construction**

(a) Any longitudinal installation of overhead lines on the highway rights-of-way shall be limited to single wooden pole type of construction. The Department shall consider requests to use a non-wooden pole type of construction on a case-by-case basis in accordance with N.J.A.C. 16:25-2.3, only in unusual circumstances in which public safety is not compromised.

(b) Joint-use single pole construction shall be encouraged, as indicated by Rule 222 of the National Electrical Safety Code<sup>1</sup>, at locations where more than one utility or type of facility is involved. This is of particular significance at locations where the right-of-way widths approach the minimum needed for safe operations or maintenance requirements or where separate installations may require extensive removal or alterations of trees.

Amended by R.1993 d.433, effective September 7, 1993.  
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

<sup>1</sup> Safety Rules for the Installation and Maintenance of Electric Supply and Communication Lines, current issue, National Bureau of Standards, U.S. Department of Commerce (for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402).

**16:25-5.3 Clearance**

(a) The minimum clearance for overhead power and communication lines above the highway and the lateral and vertical clearance from bridges shall in no case be less than the standards prescribed by the National Electrical Safety Code.

(b) Greater clearances are allowed, to conform to Company Standards.

(c) The minimum clearances between overhead power lines and highway traffic signals of lighting standards shall be determined by the following:

Power Line Voltages	Minimum Clearances	
	Lateral	Vertical
0-750 volts (secondary)	5 feet	6 feet
750 volts—50 KV (primary)	10 feet	10 feet

Note: Voltages above 50 KV, clearance shall be increased by 0.4 inches per kilovolt.

(d) The minimum clearances between overhead power lines and highway signs, sign standards or sign bridges shall be determined by the following:

Power Line Voltages	Minimum Clearances	
	Lateral	Vertical
0-750 volts (secondary)	5 feet	5 feet
750 volts—8.7 KV (primary)	5 feet	8 feet
8.7 KV—22 KV	6 feet	8 feet
22 KV—50 KV	7 feet	9 feet

Note: Voltages above 50 KV, clearance shall be increased by 0.4 inches per kilovolt.

**16:25-5.4 Location**

(a) Utility poles shall be located as close to the right-of-way line as practical. In the case of vertical stack construction, desirable pole offset should be three feet from the right-of-way line. Where crossarm construction is utilized, desirable pole offset should be five feet from the right-of-way line. Other offsets may be approved by the Department in accordance with the "New Jersey Department of Transportation Design Manual—Roadway."

(b) For existing urban arterials, urban collectors and local streets where there are curbed sections, utilities may be located in the border areas between the curb and sidewalk, at least 1.5 feet behind the face of curb, and where feasible, behind the sidewalk and as close to the right-of-way line as practical. For non-curbed urban sections, utility poles should be located as close to the right-of-way line as practical.

(c) Consideration should be given to increasing the minimum pole offsets on the outside of horizontal curves, particularly on those curves with a sharper degree of curvature than what are normal for the section of highway involved.

(d) For rural highways with or without curb and where posted speeds are 25 mph or less, poles should be placed as close to the right-of-way line as possible. If the locations of the poles, as stated herein, are infeasible and other mitigating conditions, such as parking or access are infeasible and other mitigating conditions, such as parking or excess lane width lessen the exposure or potential accident severity, then placement of poles at least 1.5 feet behind the face of curb, edge of through pavement or edge of shoulder, based on engineering judgment can be considered.

Amended by R.1993 d.433, effective September 7, 1993.  
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

#### Case Notes

Department of Transportation found primarily responsible for ensuring appropriate safety standards are satisfied by facilities installed in highway rights of way; telephone pole location rule was adopted to guide Department personnel in determining pole location; telephone company's failure to comply with location rule promulgated years after pole erected held not to constitute proof of negligence. *Ball v. New Jersey Bell Telephone Co.*, 207 N.J.Super. 100, 504 A.2d 29 (App.Div. 1986), certification denied 104 N.J. 383, 517 A.2d 391 (1986).

#### 16:25-5.5 General considerations

(a) The desirable offset behind guide rail is four feet. See the New Jersey Department of Transportation Design Manual—Roadway for further information.

1. In those cases where poles are set, with less than desirable offset behind guide rail, and said placement requires that the guide rail be modified, the utility owner shall be responsible for modifying, or for the cost of modifying the guide rail for a minimum distance of 12 and one-half feet either side of the pole.

(b) Poles shall always be located behind guide rail wherever same exists and should not be placed longitudinally within 25 feet of the advance of, or after the terminus of, guide rail. Where crash worthy end treatments exist, poles shall be located 50 feet longitudinally behind the guide rail's termini. See New Jersey Department of Transportation Design Manual—Roadway.

(c) Placement of poles in islands that do not have a longitudinal through roadway length of 100 feet or more is

discouraged except where other locations are unusually difficult and unreasonably costly.

(d) Poles being constructed in proximity to bridge structures will maintain a minimum of 40 feet offset from the main portion of the bridge structure.

(e) Guy wires to ground anchors and stub poles should not be placed between a pole and the traveled way where they encroach upon the clear roadside area.

(f) Where irregular shaped portions of the right-of-way extend beyond the normal right-of-way limits, variances in the location from the right-of-way line may be allowed, as necessary, to maintain a reasonably uniform alignment for longitudinal overhead installations.

(g) Longitudinal installations of poles, guys, or other related facilities shall not be located in a highway median. Poles and other appurtenances for highway lighting may be located in the median if other alternatives are determined to be impractical and where suitable protection is provided to the highway user.

(h) When rebuilding an existing pole line or constructing a new pole line at locations where there is no traffic signal standard, lighting standard, or sign standard, poles of not less than 40 feet on overall length shall be installed and the attached primary line, at its lowest point, shall have a minimum clearance of 30 feet from the ground. At locations where a traffic signal standard, lighting standard, or sign standard exists, the criteria shall conform to N.J.A.C. 16:25-5.3.

(i) When electrical facilities (26 KV and above) are approved for installation across limited access highway rights-of-way in accordance with N.J.A.C. 16:25-5.1, they shall be installed in accordance with the criteria outlined in N.J.A.C. 16:25-5.3; however, the proximity criteria used shall take into account not only existing highway facilities (that is, light standards, sign supports, etc.), but also facilities that the Department proposes within the area where the utility crossing will be constructed.

Recodified from 16:25-5.6 and amended by R.1993 d.433, effective September 7, 1993.

See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

Former 16:25-5.5, Design exceptions, repealed.

## SUBCHAPTER 6. SCENIC ENHANCEMENT

### 16:25-6.1 General provisions

(a) The type and size of utility facilities and the manner and extent to which they are permitted along or within highway rights-of-way can materially alter the scenic quality, appearance, and view of highway roadsides and adjacent areas. For these reasons additional controls are applicable

in certain areas that have been acquired or set aside for their scenic quality. Such areas include scenic strips, over-looks, rest areas, recreation areas, the rights-of-way of highways adjacent thereto, and the rights-of-way of sections of highways which pass through public parks, recreation areas, wildlife and waterfowl refuges and historic sites.

(b) Additional required controls are discussed in N.J.A.C. 16:25-6.2 through 6.4.

(c) The Department shall make a final decision on each request for variance from such controls.

#### 16:25-6.2 Underground utility installations

New underground utility installations may be permitted where they do not require extensive removal or alterations of trees or other natural features visible to the highway user and do not impair the visual quality of the lands being traversed.

#### 16:25-6.3 Aerial installations

(a) New aerial installations shall be avoided at such locations where there is a feasible and prudent alternative to the occupation of such lands by the aerial facility. Where this is not the case, the aerial installations should be considered only where:

1. Other locations are unusually difficult and unreasonably costly or are more undesirable from the standpoint of visual quality;
2. Undergrounding is not technically feasible or is unreasonably costly; and
3. The proposed installation can be made at a location and will employ suitable designs and material which give adequate attention to the visual qualities of the area being traversed.

#### 16:25-6.4 Utility installations for highway purposes

These scenic enhancement controls shall also be followed in the location and design of utility installations that are needed for a highway purpose, such as for continuous highway lighting, or to serve a weigh station, rest, or recreational area.

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## SUBCHAPTER 7. UNDERGROUND ELECTRIC POWER AND COMMUNICATION LINES

#### 16:25-7.1 General provisions

(a) There is wide variation in the techniques and practices for undergrounding electric power and communication lines due to differences in such factors as water conditions, type of subsoil, facility congestion and the like. Accepted methods for undergrounding such lines include trenching for conduit, duct construction or uncased buried cable; and direct burial for plowing of buried cable and jacking or pushing of pipe as conduit, especially for crossing of existing highways.

#### 16:25-7.2 Required controls for underground electric power and communication lines

(a) General rules concerning required controls for underground electric power and communication are as follows:

1. Underground utility construction shall conform to all applicable codes, standards, and specifications.
2. The Department has established a minimum bury of 36 inches.
3. Pedestals or other above ground utility appurtenances installed as part of buried cable plant shall be located as close to the right-of-way line as possible, or behind guide rail wherever same exists.
4. All proposed locations and utility designs shall be reviewed by the Department to ensure that the proposed construction will not cause avoidable interference with existing or planned highway facilities or with highway operation or maintenance.
5. On both cased or uncased installations, particularly on crossings of the highway, consideration should be given for placing spare conduit or duct to accommodate known or planned expansion of underground lines.

6. The controls outlined in N.J.A.C. 16:25-4 for electric power and communication line attachments to highway bridge structures shall be followed.

7. The general controls outlined in N.J.A.C. 16:25-3 for pipelines as relate to markers, installations, trenched and untrenched construction, and adjustment shall be followed, as applicable, on underground installations of electric power and communication lines.

(b) Location and alignment of underground utilities will be as follows:

1. On longitudinal installations, locations parallel to the pavement at or adjacent to the right-of-way line are preferable so as to minimize interference with highway drainage, the structural integrity of the traveled way, shoulders and embankment, and the safe operation of the highway. As a minimum, their lateral location will be offset a suitable distance beyond the slope, ditch, or curb line, as the Department may stipulate.

2. Crossings should be located as near normal to the highway alignment as practical.

3. Conditions which are generally unsuitable or undesirable for underground crossings should be avoided. These include locations such as in deep cuts, near footings of bridges and retaining walls; across intersections at grade or ramp terminals; at cross drains where flow of water, drift or stream bedload may be obstructed; within basins of an underpass drained by a pump; and in wet or rocky terrain where it will be difficult to attain minimum bury.

(c) Cased and uncased construction shall be as follows:

1. Crossings of underground lines shall always be encased in protective conduit or duct, and the encasement shall extend a suitable distance beyond the slope or ditch lines. On curbed sections, the encasement should extend outside the outer curbs. On freeways, the encasement shall extend to the access control lines, to the outside of frontage roads, or to an indicated line that allows for future widening of the highway.

2. Consideration shall be given to encasement or other suitable protection for any wire or cable facilities:

- i. With less than minimum bury;
- ii. Near the footings of bridges or other highway structures;
- iii. Near other locations where there may be a hazard.

3. Where encased bored installations are proposed by the utility, the utility shall be required to furnish information as to the controls and construction methods to be employed, before the proposed installations are considered by the Department. This is to insure the necessary protection of the utility facility and the integrity and operation of the highway facility.

4. Underground construction within grade separated interchange areas of limited access highways shall, at a minimum, extend between the interchanges outermost ramps.

Amended by R.1993 d.433, effective September 7, 1993.  
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

## SUBCHAPTER 7A. UNDERGROUND FIBER- OPTIC COMMUNICATION LINES AND OTHER UTILITY FACILITIES LONGITUDINALLY OCCUPYING LIMITED ACCESS HIGHWAY

### 16:25-7A.1 General considerations

(a) Only public utility companies as defined by N.J.S.A. 48:2-13 shall be considered eligible for permission to longitudinally occupy limited access highway right of way.

(b) Installations shall be of the underground type only.

(c) Where the longitudinal occupancy will involve a fiber-optic cable, and only where the Department so determines the public utility company shall provide, free of any cost, including maintenance, an 8-pair fiber-optic cable in one of the remaining ducts in the fiber-optic system, for the sole use of the Department.

(d) Where the longitudinal occupancy will involve a fiber-optic cable, the first public utility company, hereinafter "the

installer," to be granted a longitudinal occupancy permit shall be required to install a fiber-optic system. The system may be either the multi-duct system or single-duct system, at the discretion of the installer. The installer shall by virtue of the permit, be entitled to occupy one innerduct of the multi-duct system or one two-inch duct of the single-duct system. The unoccupied ducts shall be at the disposal of the Department and the Department may permit occupancy by the future permittees. The installer shall be responsible for the maintenance of the system. Future occupants, except the Department, shall reimburse the installer for its percentage share of the original installation costs and of the annual maintenance costs. The percentage share should be based on the number of ducts in the system less those occupied by Department facilities, if any. If the Department elects or chooses to occupy any of the remaining ducts for its sole use, the Department shall not be responsible for any of the initial construction costs or maintenance costs for the conduit, duct or handholes. A signed maintenance agreement between the installer and the future occupants is required and shall be submitted for the Commissioner's information prior to the issuance of the future occupant's permit. The installer, in its initial permit application or in subsequent permit applications, or another public utility company in a future permit application, may apply for occupancy of one or more of the remaining two ducts. Each occupied duct will be assessed an individual right of way occupancy permit fee. When all four ducts are occupied, the next permittee shall be considered the "first public utility company" and the above procedure shall be followed. In all cases, a permit issued for a duct shall be considered occupied by a fiber-optic cable and assessed in accordance with this subchapter.

(e) Access to the public utility facilities for the purpose of installation, repair or maintenance shall not be achieved from highway ramps or roadways, but rather from local roads or points outside of the limited access highway's control or access line. Exceptions may be granted in appropriate cases with prior written consent at the discretion of the Commissioner where the Commissioner determines that such exception would be in the public interest. All access shall be achieved in accordance with the Department approved traffic control plan, pursuant to N.J.A.C. 16:41 and N.J.A.C. 16:47, as applicable.

(f) The public utility company shall defend, indemnify, protect and, save harmless the State of New Jersey and the New Jersey Department of Transportation against any and all suits, claims, losses, demands or damages imposed by law as the result of the installation, operation or maintenance of the public utility company's facilities, including, but not limited to, any damage, disruption or interference of other public utility facilities within the limited access highway's right-of-way.

(g) The public utility company shall defend, indemnify, protect and save harmless the State of New Jersey and the New Jersey Department of Transportation from any claims

or costs associated with damage to the public utility company's facilities or disruption of utility service resulting from Department personnel's operations within the limited access highway's right-of-way, except for gross negligence or intentional misconduct.

(h) Any and all actual costs incurred by the Department for inspection of the installation and repair, or relocation of the public utility company's facilities during construction not resulting from a Department administered project, shall be reimbursed to the Department by the public utility company. An estimate of costs for Department forces shall be determined by the Department and shall be remitted to the Department by the public utility company prior to issuance of the permit. Final costs shall be remitted to the Department within 30 days of invoicing for same.

(i) A public utility company which is granted a longitudinal occupancy permit may not sell, lease or otherwise transfer any rights of the permit to another public utility company unless such a transfer is approved by the Department. Under no circumstances shall any transfer take place except with another public utility company.

Amended by R.1992 d.194, effective May 4, 1992.

See: 23 N.J.R. 3739(c), 24 N.J.R. 1801(b).

Revised (c) and (d).

Amended by R.1993 d.433, effective September 7, 1993.

See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

#### 16:25-7A.2 Occupancy permits

(a) Fees to occupy limited access highway rights-of-way shall consist of an administrative application fee and a yearly right of way occupancy permit fee.

(b) The non-refundable administrative application fee, in the amount of \$750.00 per mile of proposed occupancy, shall accompany any application for a right-of-way occupancy permit. For the purpose of the administrative application fee, joint venture installations will be considered and assessed as a single applicant.

(c) The yearly right-of-way occupancy permit fee per duct shall be in the amount of \$10,000 per mile or fraction thereof for the first year and for every year thereafter, except that the installer of the fiber-optic system shall be assessed at the annual rate of \$5,000 per mile for two ducts and shall be assessed at \$10,000 per mile for subsequent ducts for which the installer receives an occupancy permit. The mileage shall be measured along the centerline of the highway. Each occupied duct or fiber-optic cable shall be considered as an installation and shall be assessed accordingly. The installation shall consist only of those facilities that are covered and installed under each individual permit. Joint venture installations are encouraged. The joint venture may only be comprised of public utility companies and each public utility company shall be named in the permit application. No provision shall be made for future facilities or extensions. The right of way occupancy permit fee must be remitted in full prior to issuance of the occupancy permit. The annual right of way occupancy permit fee shall be remitted each year by the date specified in the permit.

(d) Installation of facilities covered by the permit must be completed within one year of the date of the permit. One 6-month extension may be permitted for just cause. Should said installation not be completed, any fees remitted shall be forfeited in full. Should the public utility company wish to complete the installation, a new permit application and fee must be filed for the unfinished portion. A new right of way occupancy permit fee will be determined and payable in accordance with N.J.A.C. 16:25-7A.2(c).

(e) The right of way occupancy permit and administrative fees cited above may be adjusted annually for inflation, at a rate equal to the change in the Consumer Price Index as published July 1 for each year.

(f) Failure to pay permit fees as described in this subsection may result in the public utility company's forfeiture of all its rights and interests associated with its permit and the Department, at its sole discretion, may remove, transfer usage or otherwise dispose of such facilities covered by the permit.

(g) Application for a longitudinal occupancy permit shall be submitted to the Department in accordance with and subject to N.J.A.C. 16:25-10.1 et seq.

(h) The permittee shall include with its application, detailed plans which indicate the type of system to be installed; the location of the system within the right of way; the method of construction; the depth of cover; the materials to be used; the method of accessing the site; the location and design of handholes; and any other data which the Department may request during the application review process. Within one month following the completion of the installation, the permittee shall provide a detailed set of as-built plans in no less than 100 scale, drawn on a reproducible medium.

#### 16:25-7A.3 Locations

(a) Where the Department deems public utility facility installations feasible, the Department will establish, within the right-of-way of limited access highways, a corridor, generally not closer than 30 feet to the edge of roadway, but contiguous to each side of the roadway's control of access line, for the installation of underground utility facilities, with possible exceptions to be granted by the Commissioner, at the Commissioner's sole discretion, where it is determined that the public good justifies an exception. Should such an exception allow a public utility facility to be placed within 15 feet of the edge of pavement, the facility shall be placed within a galvanized steel pipe casing.

(b) Prudent utilization of the corridor to provide for multiple occupancy will be required; however, the Department will not reserve space within said corridor for any facility or public utility company.

(c) At interchange areas, the installation corridor shall continue along the control of access boundary outside of the outermost roadway or ramp, with possible exceptions to be granted by the Commissioner, at the Commissioner's sole discretion, where it is determined that the public good justifies an exception.

(d) Transverse installations associated with longitudinal occupancy of the limited access highway shall be normal to the roadway's alignment and shall occur within interchange areas, with possible exceptions to be granted by the Commissioner, at the Commissioner's sole discretion, where it is determined that the public good justifies an exception.

(e) Installations shall continue along the respective control of access line even when encountering rest areas, scenic-overlook sites, truck weigh stations, and other such facilities, with possible exceptions to be granted by the Commissioner, at the Commissioner's sole discretion, where it is determined that the public good justifies an exception.

(f) Installations shall not be placed longitudinally within the median area of a limited access highway.

(g) Facilities may be attached to structures, when at the Commissioner's sole discretion, alternative locations are not feasible. When attaching to structures, the facility shall be placed within a galvanized steel pipe casing and shall be located under the bridge deck and between the beams. Facilities shall not be attached to the railing, to the outside of the fascia beam, or to otherwise constitute an attractive nuisance.

(h) Installations crossing local, State or limited access highway ramps or roadways shall be placed within a galvanized steel pipe casing.

(i) Where trees and/or shrubbery act as a buffer for the adjacent property, their removal is generally not permitted. However, if removal of vegetation is necessary, replacement trees and shrubs shall be provided by the permittee as required by the Department.

(j) Installation shall be in conformance with NJDOT Soil Erosion and Sediment Control Standards (N.J.A.C. 16:25A).

(k) Service connections to adjacent properties from within the limited access highway right of way are prohibited; however, at interchanges and local road crossings, branch line and transmission line connections may be permitted by the Commissioner, at the Commissioner's sole discretion, where it is determined that the public good justifies a connection. When connections are permitted they shall be accomplished as close as feasible to the highway's right of way line.

(l) The fiber-optic system shall be installed to a depth which permits at least 42 inches of ground cover. The utility company shall install along with the system a continu-

ous plastic ribbon or marking tape at least 12 inches below the existing ground and above the fiber-optic system. The fiber-optic cable or marker shall be equipped with a system capable of emitting a signal readable by locator equipment operated on the surface. The width of excavation shall normally not exceed 18 inches. Exceptions may be granted by the Commissioner, at the Commissioner's sole discretion, where it is determined that the public good justifies an exception.

Amended by R.1992 d.194, effective May 4, 1992.

See: 23 N.J.R. 3739(c), 24 N.J.R. 1801(b).

Revised section.

Amended by R.1993 d.433, effective September 7, 1993.

See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

**16:25-7A.4 Design of facilities**

(a) Installations shall be of the underground type only and no above ground facilities of any kind will be permitted inside the limited access highway right-of-way.

(b) Above or below ground regenerator or backup power enclosures or manholes shall not be permitted within limited access highway right-of-way.

(c) Handholes for the purpose of cable splicing and/or installation shall be permitted and shall not extend above the surrounding ground.

(d) Cable shall be encased in galvanized steel pipe or other approved encasement.

(e) All permits required for facility installation, whether from the Department or other outside parties or agencies, shall be the responsibility of the installing public utility company. Proof of permits must be supplied to the Department prior to issuance of the occupancy permit.

(f) Above ground warning signs bearing the public utility owner's name and contact number shall be mounted by the permittee upon adjacent control of access fencing at line of sight intervals or as specified in the occupancy permit.

Amended by R.1992 d.194, effective May 4, 1992.

See: 23 N.J.R. 3739(c), 24 N.J.R. 1801(b).

Revised (c) and (d).

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SUBCHAPTER 8. (RESERVED)

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SUBCHAPTER 9. SAFETY AND RESTORATION PROVISIONS

**16:25-9.1 Preservation, restoration and cleanup**

(a) The area disturbed by utility installations or relocations shall be kept to a minimum. Restoration methods

shall be in accordance with the Department's specifications and/or special provisions in utility use and occupancy agreements.

(b) Care should be taken in utility installation to avoid disturbing existing drainage facilities. Underground utility facilities shall be backfilled with previous material and outlets provided for entrapped water. Underdrains shall be provided for entrapped water. Underdrains shall be provided where necessary. No jetting or puddling will be permitted under the roadway.

(c) The utility shall be prohibited from spraying, cutting and trimming of trees without written permission by the Department.

#### 16:25-9.2 Control of traffic

(a) Traffic controls for utility construction and maintenance operations shall conform with the Manual on Uniform Traffic Control Devices for Streets and Highways and the Department's Rules and Regulations for the Maintenance and Protection of Traffic Permit Operations. All construction and maintenance operations must be planned with full regard to safety and to keep traffic interference to an absolute minimum.

(b) On heavily traveled highways, construction operations interfering with traffic will not be allowed during periods of peak traffic flow. Any such work shall be planned so that closure of intersecting streets, road approaches, or other access points is held to a minimum.

#### 16:25-9.3 Servicing, maintenance and repairs

(a) All utility facilities shall be kept in good state of repair both structurally and from the standpoint of appearance.

(b) The utility use and occupancy agreement may identify the maintenance operations which are permitted and indicate situations where prior notification to the Department is required.

#### 16:25-9.4 Multiple use of freeway rights-of-way

(a) In some instances and under certain conditions, it may be in the public interest for utilities to use and occupy the rights-of-way of freeways for parallel (longitudinal) utility installations.

(b) When such extreme case need is demonstrated to the satisfaction of the Department as being in the best public interest, and the design, location, and measures for protecting the integrity, operational characteristics, and safety of freeway traffic meet all of the conditions set forth in this chapter, then a joint use and occupancy agreement or permit may be entered into with the utility by the New Jersey Department of Transportation to allow such installations.

Amended by R.1993 d.433, effective September 7, 1993.

See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

## SUBCHAPTER 10. PERMITS

### 16:25-10.1 Application for permit

(a) For a permit to be issued to provide for any utility construction, major maintenance or related work on State Highway rights-of-way or property, a written application shall be filed with the Regional Maintenance Office on the standard form which clearly describes the proposed facility installation, construction, or work, and establishes its location with reference to work, highway stationing, land section tie, some well known permanent landmark, road or street intersection, highway bridge, or other fixed reference point.

(b) Such written application shall consist of a complete description of the facility to be installed or constructed, or the work to be performed on an existing facility, and a sketch or plans to scale, no smaller than one inch equals 50 feet, preferably, one inch equals 30 feet, and maximum plansheet size of 24 inch by 36 inch which show the existing and/or proposed location of the facilities within the highway right-of-way in relation to the existing and/or planned highway improvement, the traveled way, the right-of-way lines, and control of access lines and approved access points where applicable. Profile view plans and cross sections shall also be furnished when required for clarity.

(c) All applications shall be signed by an official having contractual authority for the utility, or by the owner of the facility. Applications should also contain statements as to whether the proposed installation or construction is required to have, and if it has, the approval of the franchising municipality, or other applicable Federal, State or Local Government Agencies having jurisdiction thereover: and, if such agency approval is required, the name of the agency having such jurisdiction.

(d) All applications shall be made a part of the permit issued by the Regional Maintenance Office and shall be submitted in the number of copies, including plans or sketches, required by N.J.A.C. 16:41 and N.J.A.C. 16:47.

(e) All permits shall constitute a binding contract; therefore, proxy applications on behalf of the intended permittee, or verbal or unsigned requests for utility permits, will not be valid, and a permit will be withheld until a proper application is received and approved.

(f) A permit shall expire if all construction work under the permit, including those permits issued under N.J.A.C. 16:41, is not completed within two years of the date the permit was issued, unless stated otherwise in the permit or extended by renewal. When work covered by the permit is started within two years of the date of permit issuance but cannot be completed in the indicated time, the permittee shall request an extension of time in writing from the appropriate Regional Maintenance Office and submit the required renewal fee in the form of a check or money order. The Department may approve one one-year extension, in accordance with N.J.A.C. 16:41, or N.J.A.C. 16:47, as appropriate.

Amended by R.1993 d.433, effective September 7, 1993.  
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

### 16:25-10.2 Opening permits

(a) Requests for opening permits, by any utility, that will involve the construction of underground facilities beneath paved roadway surfaces shall always be of special consideration.

(b) Normally no open-cuts of pavement will be allowed within freeway rights-of-ways. Any additional facilities required after completed construction of freeways will, where paving is encountered, normally be by the bore and jack methods and shall further be accomplished from outside the no access limits of the freeway.

(c) Under normal, non-emergency situations, major highway paving, whether new or improved, will carry a minimum "no open-cut" period of five years. This basic five-year period will be used only as a minimal guide, and in most cases where high traffic volume is encountered the "no open-cut" period will be extended indefinitely.

(d) Permits for open-cut should be supervised by the Regional Maintenance Office to assure satisfactory replacement of base course and roadway paving.

Amended by R.1993 d.433, effective September 7, 1993.  
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

### 16:25-10.3 Deposit or bond

(a) Pursuant to authority of the applicable New Jersey Statutes, a certified check or bond as a guarantee or compliance with the provisions of the permit to guarantee restoration of highway right-of-way or property shall be required if deemed necessary, in an amount sufficient to cover costs that may be incurred by the Department of Transportation in making repairs or restoration of its right-of-way or property if such satisfactory repair or restoration is not made by the permittee.

(b) The amount of the certified check or bond shall represent the best judgement and estimate of the Regional Maintenance Office of the actual cost to the Department as might be incurred to restore the highway to its original

condition if such work were not properly performed by the permittee.

### 16:25-10.4 Approval and issuance

(a) The Department shall review all permit applications for conformance with the provisions of this chapter, especially where above ground facilities are involved.

(b) Permits for utility installations or work on any Interstate right-of-way shall have prior approval of the Federal Highway Administration. All permits for utility installations or work shall be issued under the authority of applicable New Jersey Statutes, and shall be so referenced therein.

(c) All utility permits shall be issued only to the permanent owner and operator of the utility facility, and not to the party, company, or contractor performing the installation or construction work, nor to the temporary agent or engineer handling preparation of the permit application for the permanent owner.

### 16:25-10.5 Acceptance of license or permit

The start or performance of any work under a permit shall constitute full understanding and acceptance of, agreement with, and shall represent the express intention and obligation of the utility to comply with, the terms and provisions hereof and of the permit.

### 16:25-10.6 Notice of starting work

The permittee shall notify the designated Regional Maintenance Officer in writing not less than three days prior to starting work in order that observation and inspection of the work may be provided, except that notification may be given on the day work is started on approved above ground construction or maintenance work which can be inspected after the work is completed, and on emergency maintenance and repair work.

### 16:25-10.7 Permit to be kept on job

(a) The approved permit, or a copy of same, shall be kept at the location of the work at all times work is in progress, and it shall be shown to Department Representatives upon request as proof of having received authorization to perform the work on highway right-of-way or property.

(b) Failure to furnish such proof of possession of, or to have approval for the issuance of, a valid permit may result in a Department directed stoppage of work.

(c) The burden of such proof shall be on the party, company, or contractor performing the work, or on the utility owner responsible for the work.

### 16:25-10.8 Occupancy by unwritten consent

(a) All utility lines, systems and facilities that have been, and that may be located on or across highway rights-of-way by operation of law and without the issuance by the Depart-

ment of a written permit covering the installations, shall be considered, as occupying, crossing or otherwise using said right-of-way subject to the provisions of the applicable New Jersey statutes, the prior property rights, rules and regulations of the Department and the principles and requirements set forth herein.

(b) Any new rules, regulations, and specifications of the Department, and any new requirements in this chapter, are not to be applied retroactively against existing utility occupancies except that any such new rules, regulations, specifications, and new requirements shall apply to new or replacement facilities constructed as relocations whether required by the Department due to the existing facility obstructing or interfering with the present or proposed use of the highway right-of-way for highway purposes, or when such existing facilities are being replaced, relocated, or otherwise substantially changed by the utility owner for owner's purposes or convenience.

#### 16:25-10.9 Right to revoke or annul permit

The Commissioner of the Department is authorized, subject to giving reasonable notice (and hearing if requested) to revoke or annul a permit if the utility fails to comply with the provisions of this chapter and terms and conditions of the permit, or if the utility occupancy of the right-of-way becomes an interference to the use of the right-of-way for highway purposes. Any hearings conducted shall be subject to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1 et seq.

#### 16:25-10.10 Responsibility for costs

(a) The utility, by applying for, accepting, and performing work under any permit, or by occupying highway right-of-way by unwritten consent, assumes the obligation by law and gives implied assurance of financial responsibility for all costs of the initial installation, subsequent operation, maintenance and servicing of the facility.

(b) The utility shall bear, or when applicable shall require its contractor or subcontractor to bear, all costs of any restoration and/or repairs to the utility facility and any highway property disturbed or damaged in the initial installation and/or subsequent maintenance or servicing operations associated with, or resulting from, permittee's normal operations and requirements in the occupancy of highway rights-of-way or property.

(c) The utility shall be responsible for, or require its contractor or subcontractor to be responsible for, all costs of any restoration or repair work as may be necessary due to failure or break in such utility facility which results in damage to either or both the utility facility or highway property.

(d) The utility shall be responsible for such other work as may be required by the Department if the utility's facilities are not maintained in a good state of repair; and the utility shall make any such emergency repairs of breaks or line failure which cause any hazard to the public, interference to traffic, or damage to highway property as promptly as reasonably possible after learning or being advised of such break or failure.

(e) The utility shall begin any normal repairs required by the Department to restore its facility to a good state of repair within 90 days of receipt of written request thereof from the Department, and shall exercise due diligence to prosecute such repair work to an early and orderly conclusion.

(f) If any subsequent change in the highway facility necessitates the moving or adjusting of utility facilities located by a permit, or operation of law on, over, under, or across highway right-of-way or other highway property, then the Department shall bear all costs and expense of such required move or adjustment.

(g) The utility shall begin such move or adjustment following written notice and request to do so by the Department, and shall exercise due diligence to prosecute the work of such move or adjustment to an early and orderly conclusion, and without causing undue delay to, or interference with, highway construction, betterment or maintenance operations.

#### Law Review and Journal Commentaries

DOT—Highway Access Permits—Relocation Costs—Transportation—Utilities. P.R. Chenoweth, 134 N.J.L.J. No. 11, 50 (1993).

#### Case Notes

Commercial or housing development that requires relocation of utility may be required to underwrite costs of relocation of any utility poles necessitated by development. *Pine Belt Chevrolet, Inc. v. Jersey Cent. Power and Light Co.*, 249 N.J.Super. 461, 592 A.2d 634 (A.D. 1991), certification granted 130 N.J. 10, 611 A.2d 649, reversed 132 N.J. 564, 626 A.2d 434.

Department of Transportation's road-widening condition for granting highway-access permit was not sufficient to trigger statute requiring Department to pay costs of relocating utility facilities. *Pine Belt Chevrolet, Inc. v. Jersey Cent. Power and Light Co.*, 132 N.J. 564, 626 A.2d 434 (1993).

Utility was liable for relocation of its facilities necessitated by road-widening condition imposed by Department of Transportation on property owners' highway-access permits. *Pine Belt Chevrolet, Inc. v. Jersey Cent. Power and Light Co.*, 132 N.J. 564, 626 A.2d 434 (1993).

Department of Transportation, rather than utility or owners, was required to bear costs of relocation of utility poles resulting from widening of state highway. *Pine Belt Chevrolet, Inc. v. Jersey Cent. Power and Light Co.*, 249 N.J.Super. 461, 592 A.2d 634 (A.D.1991), certification granted 130 N.J. 10, 611 A.2d 649, reversed 132 N.J. 564, 626 A.2d 434.

Department of Transportation need not bear costs of relocation of utility lines. *Pine Belt Chevrolet, Inc. v. Jersey Cent. Power and Light Co.*, 249 N.J.Super. 461, 592 A.2d 634 (A.D.1991), certification granted 130 N.J. 10, 611 A.2d 649, reversed 132 N.J. 564, 626 A.2d 434.

## SUBCHAPTER 11. SPECIAL PERMITS AND AGREEMENTS

### 16:25-11.1 Railroad crossings

(a) The Commissioner of Transportation has plenary power over all public railroad crossings in the State, in accordance with N.J.S.A. 48:12-49 et seq.

(b) Railroad crossings consist of grade separated crossings (bridged) and at grade crossings:

1. The following applies to grade separated crossings:

i. For grade separated crossings where the railroad is over the highway, the Department shall determine the vertical and horizontal under clearances and the railroad and the Department shall approve the structure of the crossing;

ii. For grade separated crossings where the railroad is under the highway, the railroad shall determine the vertical and horizontal under clearances and the Department and railroad shall approve the structure of the crossing;

2. The following applies to at grade crossings:

i. Public at grade crossings occur where the railroad intersects an existing or proposed public street or highway. New public at grade crossings or modifications to existing public at grade crossings are only permitted by the Commissioner of Transportation, after he or she exercises the evaluation, public information and response process delineated in (c) below.

ii. Private at grade crossings occur in areas other than public thoroughfares, and the Commissioner normally does not exercise his or her authority over these crossings; however, where a private at grade crossing is used primarily by the general public, the Commissioner may take jurisdiction of the private at grade crossing if he or she is of the opinion such jurisdiction is in the interest of public safety.

(c) The evaluation, public information and response process for at grade public crossings shall be conducted by the Department as follows:

1. A diagnostic team, composed of Department staff, the applicant for the crossing, and municipal and county officials who have an interest in the crossing, will meet on the site of the proposed crossing to evaluate the engineering and safety aspects of the crossing;

2. The team leader (a Department staff member) will prepare a memorandum of record, noting the findings of the team;

3. The Department will publish a notice in the newspaper(s) serving the area in which the proposed grade crossing is located, describing the particular work intended at the grade crossing, and calling for members of the public who object, or who have questions or comments regarding the proposed crossing to submit their objections, questions or comments to the Department; and

4. The Department will respond to the commenters in writing.

(d) Any person who objects to the Department's decision regarding an at grade crossing may request a hearing, in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

New Rule, R.1993 d.433, effective September 7, 1993.  
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

### 16:25-11.2 Local-Federal Aid Agreements

(a) Pursuant to the provisions of Federal-Aid Policy Guide, Title 23, Chapter 1, Subchapter G, Part 645, Subpart B, the Department shall enter into agreements with appropriate county and municipal officials to provide for regulating the use and occupancy of Federal Aid Roads, and to assist local officials in establishing utility accommodation policies conforming, as appropriate for the type of highway involved, to the provisions of this chapter.

(b) Such agreements may be entered into on a project-by-project basis handled by the Bureau of Local Highway Design. Until a county or municipality adopts a utility accommodation policy approved by the Department conforming to federal requirements, the Bureau of Utilities and Railroad Engineering shall review for conformance with the State requirements in effect at the time all utility rearrangement schemes on Federal Aid Roads that are subject to the provisions of Federal-Aid Policy Guide, Title 23, Chapter 1, Subchapter G, Part 645, Subpart B.

Amended by R.1993 d.433, effective September 7, 1993.  
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

### 16:25-11.3 Private utilities

(a) Requests for permits by private persons or concerns to cross, occupy, or use Interstate freeways, State highways, or Federal Aid Road rights-of-way shall be treated as special cases; and the review, approval, and issuance of any such permits for the accommodation of such privately owned facilities shall be on the merits of the individual requests as to its necessity and legal basis consistent with New Jersey Law.

(b) Where the requested use and occupancy involved more than a road crossing or a relatively short segment of

parallel line (for example, up to 1/8 mile), or where equivalent utility service is available without the private line installation, then the request shall be referred to the Office of the Attorney General for an opinion as to whether the proposed private use of the highway right-of-way is in violation of State law. All such private lines must also meet all other applicable provisions of this chapter.

(c) Applications for longitudinal use and occupancy of Federal Aid highways by private lines shall be submitted by the Department to the Federal Highway Administration Division Administrator, for prior approval.

Amended by R.1992 d.194, effective May 4, 1992.  
See: 23 N.J.R. 3739(c), 24 N.J.R. 1801(b).

Added (c).  
Amended by R.1993 d.433, effective September 7, 1993.  
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

#### 16:25-11.4 Highway lighting

Requests for permits to install or revamp highway lighting systems by electric utilities or municipalities shall be treated as special cases; and each such request shall be referred to the Department for review and recommendations as to acceptability of design, adequacy of lighting, and safety factors in addition to the normal review and processing for permit approval of an above-ground utility installation.

## SUBCHAPTER 12. UTILITY RELOCATIONS AND ADJUSTMENTS

### 16:25-12.1 Reimbursement basis

(a) Reimbursement to utility owners for required relocations and adjustments of existing utility lines, systems and facilities required by highway construction or improvements shall be made in accordance with the detailed procedures of Federal-Aid Policy Guide, Title 23, Chapter 1, Subchapter G, Part 645, Subpart A. As provided in such Federal regulations, the determination of eligibility for reimbursement shall be made pursuant to applicable State law, both statutory and case, and the Constitution; and such basis for determination of eligibility (compensable property interest) under New Jersey law is generally interpreted by legal counsel for the Department and should be administered, as follows:

1. Existing utilities located on private property on which the Department does not have any prior right, title, or interest therein shall be considered eligible for reimbursement.
2. Existing public utilities located on the street right-of-way of any incorporated town or city, and which right-of-way was not a part of, or on the State highway system at the time of the installation or construction of the utilities, shall be considered eligible for reimbursement.

3. Existing public utilities located on county road, dedicated urban development road, and/or private road rights-of-way which were not a part of, or on, the State highway system at the time of the installation or construction of the utilities, shall be considered eligible for reimbursement.

4. The installation or construction of extra utility properties (such as, but not limited to, encasement pipes and taller poles) and other extra costs of installing or constructing new utility facilities that will meet highway construction requirements and/or standards, (and when such construction is on approved highway location or alignment and the extra work will affect lower cost utility adjustments by being performed at the time such new utilities are being installed or constructed on private property or non-highway right-of-way on a Commissioner approved and programmed project) shall be considered eligible for reimbursement. Such "preventive" adjustments shall be handled according to the applicable policies and procedures of Federal-Aid Policy Guide, Title 23, Chapter 1, Subchapter G, Part 645, Subpart A, and any amendments and supplements thereto.

5. Existing public utilities located on existing State highway right-of-way by statutory grant and/or written consent of the Department shall be considered as eligible for reimbursement.

6. All public utilities, when affected by freeway construction, shall be considered as eligible for reimbursement.

(b) The general criteria outlined in (a) above for determining eligibility for reimbursement for relocation costs shall be applied on the basis of the actual location of the existing utility facility in relation to existing highway right-of-way, except that in some cases, a determination of whether the Department or the utility possesses the prior property interest in the same location on existing highway right-of-way may be necessary to decide the Department's legal obligation.

(c) The general criteria outlined in (a) above shall apply in determining eligibility for reimbursement for the relocation of utilities on any construction or improvement project administered (constructed) by the Department, except on projects on which determinations of eligibility are unnecessary due to the Department contracting with other agencies or political subdivisions of the State government to make arrangements for utility relocation to be provided at no cost to the Department.

(d) The Department shall make the contractual arrangements and reimburse for eligible adjustments on all Interstate and Federal aid primary projects and shall reimburse for eligible adjustments on all Federal aid secondary, and urban projects except those where the Commissioner stipulates or contracts with other agencies that eligible utility adjustments are to be provided either at no cost to the Department or that the Department shall participate with others in reimbursement for such eligible adjustment costs.

Amended by R.1993 d.433, effective September 7, 1993.  
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).

**Law Review and Journal Commentaries**

DOT—Highway Access Permits—Relocation Costs—Transportation—Utilities. P.R. Chenoweth, 134 N.J.L.J. No. 11, 50 (1993).

**Case Notes**

Commercial or housing development that requires relocation of utility may be required to underwrite costs of relocation of any utility poles necessitated by development. *Pine Belt Chevrolet, Inc. v. Jersey Cent. Power and Light Co.*, 249 N.J.Super. 461, 592 A.2d 634 (A.D. 1991), certification granted 130 N.J. 10, 611 A.2d 649, reversed 132 N.J. 564, 626 A.2d 434.

Department of Transportation's road-widening condition for granting highway-access permit was not sufficient to trigger statute requiring Department to pay costs of relocating utility facilities. *Pine Belt Chevrolet, Inc. v. Jersey Cent. Power and Light Co.*, 132 N.J. 564, 626 A.2d 434 (1993).

Department of Transportation, rather than utility or owners, was required to bear costs of relocation of utility poles resulting from

widening of state highway. *Pine Belt Chevrolet, Inc. v. Jersey Cent. Power and Light Co.*, 249 N.J.Super. 461, 592 A.2d 634 (A.D.1991), certification granted 130 N.J. 10, 611 A.2d 649, reversed 132 N.J. 564, 626 A.2d 434.

Department of Transportation need not bear costs of relocation of utility lines. *Pine Belt Chevrolet, Inc. v. Jersey Cent. Power and Light Co.*, 249 N.J.Super. 461, 592 A.2d 634 (A.D.1991), certification granted 130 N.J. 10, 611 A.2d 649, reversed 132 N.J. 564, 626 A.2d 434.

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**SUBCHAPTER 13. SEVERABILITY**

**16:25-13.1 Severability**

If any provision of this chapter is held invalid, the remainder of the chapter shall not be affected thereby, and shall remain in full force and effect.