

**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, 48:19-17.

Source and Effective Date

R.1998 d.401, effective July 10, 1998.
See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Utility Accommodation, expires on January 6, 2004. See: 35 N.J.R. 3280(a).

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, Utility Accommodation, was readopted as R.1993 d.433, effective August 9, 1993. See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a). Subchapter 8, Irrigation and Drainage Pipes, Ditches, and Canals, was repealed by R.1993 d.433, effective September 7, 1993.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).

Pursuant to Executive Order No. 66(1978), Chapter 25, Utility Accommodation, was readopted as R.1998 d.401, effective July 10, 1998. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 16:25-1.1 Definitions
- 16:25-1.2 Rights-of-way
- 16:25-1.3 Applicability
- 16:25-1.4 Scope
- 16:25-1.5 Standards and references
- 16:25-1.6 Authority of utilities to use and occupy the rights-of-way of State highways (land service highways)
- 16:25-1.7 Provisions for restricted occupancy of limited access highways

SUBCHAPTER 2. GENERAL CONSIDERATIONS

- 16:25-2.1 Location of utility facilities
- 16:25-2.2 Design of utility facilities
- 16:25-2.3 Waivers

SUBCHAPTER 3. PIPELINES

- 16:25-3.1 Location and alignment
- 16:25-3.2 Bury
- 16:25-3.3 Controls for the bury of pipelines
- 16:25-3.4 (Reserved)

- 16:25-3.5 Casings
- 16:25-3.6 Allied mechanical protection
- 16:25-3.7 Appurtenances
- 16:25-3.8 Restriction against varied use
- 16:25-3.9 Installation
- 16:25-3.10 Trenched construction and backfill
- 16:25-3.11 Trenchless construction and grouting
- 16:25-3.12 Utility tunnels and bridges
- 16:25-3.13 Adjustment

SUBCHAPTER 4. INSTALLATION ON HIGHWAY STRUCTURES

- 16:25-4.1 General considerations

SUBCHAPTER 5. OVERHEAD POWER AND COMMUNICATION LINES

- 16:25-5.1 General provisions
- 16:25-5.2 Type of construction
- 16:25-5.3 Clearance
- 16:25-5.4 Location
- 16:25-5.5 General considerations

SUBCHAPTER 6. SCENIC ENHANCEMENT

- 16:25-6.1 General provisions
- 16:25-6.2 Underground utility installations
- 16:25-6.3 Aerial installations
- 16:25-6.4 Utility installations for highway purposes

SUBCHAPTER 7. UNDERGROUND ELECTRIC POWER AND COMMUNICATION LINES

- 16:25-7.1 General provisions
- 16:25-7.2 Required controls for underground electric power and communication lines

SUBCHAPTER 7A. UTILITY FACILITIES LONGITUDINALLY OCCUPYING LIMITED ACCESS HIGHWAY

- 16:25-7A.1 General considerations
- 16:25-7A.2 (Reserved)
- 16:25-7A.3 Location
- 16:25-7A.4 Design of facilities

SUBCHAPTER 8. (RESERVED)

SUBCHAPTER 9. SAFETY AND RESTORATION PROVISIONS

- 16:25-9.1 Preservation, restoration and cleanup
- 16:25-9.2 Control of traffic
- 16:25-9.3 Servicing, maintenance and repairs
- 16:25-9.4 Multiple use of freeway rights-of-way

SUBCHAPTER 10. PERMITS

- 16:25-10.1 Application for permit
- 16:25-10.2 through 16:25-10.10 (Reserved)

SUBCHAPTER 11. SPECIAL PERMITS AND AGREEMENTS

- 16:25-11.1 Railroad crossings
- 16:25-11.2 Local Federal-Aid Agreements
- 16:25-11.3 Private utilities
- 16:25-11.4 Highway lighting

SUBCHAPTER 12. UTILITY RELOCATIONS AND ADJUSTMENTS

- 16:25-12.1 Reimbursement

SUBCHAPTER 13. SEVERABILITY

16:25-13.1 Severability

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.

“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.

“Border area” is the space between the outer edge of shoulder or curb line or gutter line and the right-of-way line.

“Boring” means a method for installing pipes underground without disturbing the surface by jacking large pipes through oversize bores carved progressively ahead of the leading edge of the advancing pipe as soil is removed through the pipe.

“Bury or cover” means depth of top of pipe or conduit system below grade of roadway or roadside.

“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 structural element surrounding a carrier or conduit.

“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.

“Compensable property right or interest” means the installation, removal and relocation of utility facilities which are eligible for compensation in accordance with the provisions of the Eminent Domain Act of 1971, N.J.S.A. 20:3-1 et seq., or the procedures set forth in Federal-Aid Policy Guide, 23 CFR 645A.

“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 and 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.

“Coring” means a method for installing pipes underground without disturbing the surface by using a small casing without a pilot shoe that 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.

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

“Curb line” means the edge of the paved surface of the roadway where it meets a raised curb.

“Department” means New Jersey Department of Transportation.

“Direct burial” means installing a utility underground without casing or conduit.

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

“Driving” means a method for installing pipes underground without disturbing the surface by using a small pipe with a pilot shoe that can be driven through compressible soils by a steady thrust, hammering, or vibrating.

“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.

“Facility(ies)” means all plant and equipment owned or operated by a utility.

“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.

“Flexible pipe” means a metallic or nonmetallic 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.

“Gutter line” means the edge of the paved surface of the roadway where it meets the roadside.

“Handhole” means a small chamber 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.

“Interchange” means a system of interconnecting roadways in conjunction with one or more grade separations, providing for the movement of traffic between two or more roadways at different levels.

“Land service highway” means an arterial, collector or local highway with intersections at grade and direct access to abutting property.

“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, Utility and Railroad Engineering” means the individual authorized by the Commissioner of the Department of Transportation to prepare utility agreements cover-

ing rearrangement and/or occupancy by utilities on highways in connection with all State administered road construction and/or improvement projects.

“Manhole (includes Chambers or Vaults)” means an opening in an underground system providing access to utility facilities 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. A utility agreement between the Department and a utility also serves as a permit.

“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) (kPa gage).

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

“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.

“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 (300 mm) over a pipe or conduit system.

“Single wooden pole type of construction” means that no pole shall be closer than 10 feet (three meters) to any other pole.

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

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

“Surfaced area” means the area that has been covered with manmade materials to provide a firm surface upon which to walk or drive.

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

“Trenched” means installed in an open excavation.

“Trenchless” means installed without breaking ground or pavement surface except at the entrance and exit point, such as by jacking or boring.

“Utility” means a privately, publicly, or cooperatively owned line, facility or system for producing, transmitting, or distributing communications, cable television, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public. The term utility shall also mean the utility company inclusive of any wholly owned or controlled subsidiary. The term “utility(ies)” when used herein is intended to reference both public and private utilities unless otherwise individually specified.

“Utility Agreement” means the document by which the Commissioner of the Department of Transportation, in connection with highway construction, enters into an agreement with a public utility, a private utility, a utility not covered by N.J.S.A. Title 48, or a utility having compensable property rights as to the installation, removal and/or relocation of its facilities. The Agreement further serves as the permit to occupy highway rights-of-way and specifies the requirements for, and the conditions of said occupancy.

“Vent” means an appurtenance by which fluids or gases between a carrier pipe and a 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.

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

“Wet-boring” means a method for installing pipes underground without disturbing the surface by sluicing a jet of slurry through a hole which is kept full of pressured slurry to prevent collapse. The pipe is pushed through the slurry, evacuating the excess.

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”, “hand-hole” 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).

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

Rewrote the section.

16:25-1.2 Rights-of-way

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

(b) The rules contained in this chapter formally establish the criteria used by the Department 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).

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

Rewrote (a); and in (b), substituted a reference to the Department for a reference to the Commissioner of Transportation.

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

(a) The rules contained in this chapter apply to all utilities, including, but not limited to, those as defined in N.J.A.C. 16:25-1.1 that are to be located, adjusted, or relocated within the rights-of-way under the auspices of the Department. Such utilities may involve underground, surface, or overhead facilities, either singularly or in combination.

(b) 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, are subject to the requirements of this chapter. However, any amendments to this chapter effective (the effective date of the adopted amendments) shall not be applied retroactively against existing utility occupancies.

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

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

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

Rewrote the section.

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 (NESC) of the National Bureau of Standards and the New Jersey Department of Health and Senior Services 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,¹ The American Association of State Highway and Transportation Officials' Guide for Accommodating Utilities within Highway Right-of-Way,² 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).

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

Updated footnote references.

¹ Standard Specifications for Road and Bridge Construction. New Jersey Department of Transportation, 1996 as amended or superseded.

² 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, DC 20001, 1994.

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

(a) The rights that 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;
and
- ix. Cable Television—N.J.S.A. 48:5A-1 et seq.

Amended by R.1998 d.401, effective August 3, 1998.
See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).
In (a)1, added ix.

16:25-1.7 Provisions for restricted occupancy of limited access highways

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

(b) The Department has excluded longitudinal occupancy of 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. 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 nuclear 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) Whenever a longitudinal 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 shall be specified in the agreement or permit.

(g) Utility crossings of limited access highways are to be held to a practical minimum and where permitted shall meet all applicable provisions of this chapter.

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

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).

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

In (a), substituted a reference to land service highways for a reference to conventional highways, and substituted a reference to the Department for a reference to the Commissioner of Transportation; in (b), inserted "occupancy of" following "longitudinal" and deleted ", and the Department has established rules for crossings of such roads by utility facilities" at the end of the first sentence; in (d), substituted a reference to nuclear radiation for a reference to radiation in 3; and rewrote (f) through (h).

SUBCHAPTER 2. GENERAL CONSIDERATIONS

16:25-2.1 Location of utility facilities

(a) Utility facilities installed within a State highway right-of-way require a permit issued by the Department. A utility agreement, as defined in this chapter, with the Utility and Railroad Engineering Unit of the Department shall serve as a permit. Utility facilities must be located to permit servicing such facilities 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, a utility facility should cross the highway on a line generally normal to the highway alignment.

(d) With pole type facilities, where a guide rail is present, poles shall 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 this chapter.

(g) The Department may allow a fiber-optic utility facility 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).

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

In (a), substituted references to utility facilities for references to utility lines throughout, and substituted a reference to State highways for a reference to highways; in (c), substituted a reference to utility facilities for a reference to utility lines; rewrote (d); in (f), substituted a reference to this chapter for a reference to these rules; and in (g), substituted a reference to fiber-optic utility facilities for a reference to fiber-optic systems.

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 ¹.

2. Water lines shall conform with the currently applicable specifications of the American Water Works Association ².

3. Pressure pipelines shall conform with the currently applicable sections of the Standard Code of Pressure Piping of the American National Standards Institute³; 49 CFR Parts 192, 193, and 195; applicable industry codes; and Title 14 of the New Jersey Administrative Code.

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

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-XXO, incorporated herein by reference⁵ and the National Electrical Safety Code (NESC)¹.

(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.

¹ National Electrical Safety Code (NESC), current issue, Bureau of Standards, U.S., Department of Commerce. (For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402).

² American Water Works Association Standards and Specifications, current issue, AWWA, 2 Park Avenue, New York, NY 10016.

³ ANSI Standard Code for Pressure Piping of the American National Standards Institute, 1430 Broadway, New York, NY 10018.

⁴ 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, NY 10020.

⁵ ANSI Standard Code for Fiber-Optic Facilities EIA472-B, 472B-XXO of the American National Standards Institute, 1430 Broadway, New York, NY 10018.

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).

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

In (c), added a reference to Title 14 of the New Jersey Administrative Code at the end of 3, and added a reference to the National Electric Safety Code at the end of 5.

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 this chapter 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. The request for waiver shall state reasons why a waiver is appropriate and include documentation to support the waiver. The waiver may also need to be approved by the Federal Highway Administration if the highway involves Federal funds.

(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).

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

In (a), substituted a reference to this chapter for a reference to N.J.A.C. 16:25-3.5; and in (b), deleted "as an attachment to the permit application" at the end of the first sentence, and added a third sentence.

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 shall be at a minimum of 36 inches (900 mm); 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 49

CFR Part 192, and any amendments thereof and other applicable Federal and State regulations.

(c) Where less than minimum bury is made necessary because of other utilities, water table, ordinances, or similar reasons, the pipe shall be rerouted or else protected in a suitable manner approved by the Department using the special considerations listed in (a) above.

(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.

Amended by R.1998 d.401, effective August 3, 1998.
See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

In (a), inserted a metric measurement reference; in (b), added a reference to other applicable Federal and State regulations at the end; and in (c), added "approved by the Department using the special considerations listed in (a) above" at the end.

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 Casings

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

1. As an expediency in the insertion, removal, replacement or maintenance of carrier pipe crossings of freeways, 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 cased. Exceptions may be made where assurance can be provided against damage to the protective coating.

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

1. With less than minimum cover;
2. Near footings of bridges or other highway structures or across unstable or subsiding ground;
3. Near other locations where there may be a hazard.

(d) Rigid casing 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 cased, the casing shall extend a suitable distance beyond the slope or ditch lines. Where appropriate, the casing 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, without the need for any utility adjustment.

(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).
Amended by R.1998 d.401, effective August 3, 1998.
See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

Substituted references to casing for references to encasement throughout; in (a), substituted "considered" for "required" in the introductory paragraph, and substituted "of" for "or" following "crossings" in 1; in (c), substituted a reference to minimum cover for a reference to minimum bury in 1, and substituted "of" for "or" following "footings" in 2; and in (f), added ", without the need for any utility adjustment" at the end.

16:25-3.6 Allied mechanical protection

(a) When uncased installations are permitted, the following controls shall be applied for providing allied mechanical protection to an uncased pipeline crossing a highway.

1. 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.

2. 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 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).

Amended by R.1998 d.401, effective August 3, 1998.
See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).
Rewrote (a).

16:25-3.7 Appurtenances

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

1. 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. Such vents should be permitted only where they do not affect pedestrian traffic.

2. 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 transmission 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 not be located in the pavement of major 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. 16:25-2.2(c). Effort shall be made to minimize such installations and to avoid their location at street intersections or within the traveled way, 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 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).
Amended by R.1998 d.401, effective August 3, 1998.
See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).
Rewrote (a).

16:25-3.8 Restriction against varied use

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

1. Pipeline installation permits shall identify the 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 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.

Amended by R.1998 d.401, effective August 3, 1998.
See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

In (a), deleted "class of" preceding "transmittant" throughout, and substituted "specify" for "identify" in 1.

16:25-3.9 Installation

Installation or replacement of pipelines along or crossing existing highways shall be controlled by Department 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).
Amended by R.1998 d.401, effective August 3, 1998.
See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

Substituted a reference to Department specifications for a reference to end-product specifications at the end of the first sentence.

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.

Amended by R.1998 d.401, effective August 3, 1998.
See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).
Rewrote (c).

16:25-3.11 Trenchless construction and grouting

(a) Several techniques acceptable to the Department for installing pipelines under a highway without disturbing the surface are driving, coring, boring and wet boring. Wet-boring is prohibited on major highways unless authorized by the Department. Special care and permission of the Department is required when using this method on other highways.

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

1. Trenchless construction is required for all new or replacement pipeline crossings of controlled access and other major highways. On controlled access highways, as a minimum, the trenchless construction shall extend under and across the entire roadway prism. On the other major highways, the trenchless construction shall extend under and across the surfaced area of the highway.

2. Portal limits of pipeline crossings shall be beyond the surfaced areas of the highway so as to avoid impairing the roadway during installation of the pipeline.

3. The oversize of the boring excavation shall be restricted and the Department shall establish, on a case-by-case basis, the conditions specified under which the void outside the carrier must be back-filled with grout.

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

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

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

Rewrote (a); and in (b), deleted a former second sentence in 2, and deleted former second and third sentences in 3.

16:25-3.12 Utility tunnels and bridges

(a) A utility tunnel or a bridge may be constructed 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 shall 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 the culvert and bridge practice of the Department.

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

In (a), substituted "may be constructed" for "occasionally is provided" in the first sentence.

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 (450 mm) of subgrade 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 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).

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

In (a)2ii, inserted a metric measurement reference.

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, attachment to bridge structures should be avoided where it is feasible and reasonable to locate utility facilities elsewhere. 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, shall 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 shall 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. No utilities shall be placed in the deck, sidewalk or parapet of a bridge. Gas, water and sewer mains shall not be placed in box beams or other enclosed areas. No utility shall be placed outside the parapet where people may walk on it. Connections for utility supports to prestressed concrete beams shall be made to inserts cast in the beams. Drilling into prestressed concrete beams is not permitted. Utilities shall not be supported by a system which requires inserts in the concrete deck slab. Conglomeration of utilities in the same bay should be avoided in order to facilitate inspection and painting of the structure. Appropriate devices must be provided at the locations of joints in the bridge deck to accommodate movement. Galvanized structural steel shall be utilized for supports where structural elements cannot be utilized to carry loads. Welding to the tension flange, as well as that portion of the web which is in tension, is not permitted. Ducts shall be provided for electrical and communication cables. Pipes carrying liquids under pressure should be sleeved within 9.84 feet (three meters) of abutments, walls and piers. Pipes installed through abutment backwalls shall be placed in steel sleeves, coated with a corrosion inhibiting material, set in nonshrink grout with the opening between the pipe and the sleeve sealed to prevent leakage through the backwall.

(c) The general controls for providing a casing, 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 in a casing, 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. Shut-off valves shall be provided on both sides of a bridge.

(d) Since casing 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).

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

Rewrote (a) and (b); in (c), substituted references to casing for references to encasement, and added a third sentence; and in (d), substituted a reference to casing for a reference to encasement.

SUBCHAPTER 5. OVERHEAD POWER AND COMMUNICATION LINES

16:25-5.1 General provisions

(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 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 as near as practical to the right-of-way line. 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).

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

In (a), deleted " , that is, the space between the edge of shoulder or curb line and the right of way line," following "area" in the second sentence, and substituted "as near as practical to the right of way line" for "beyond the clear roadside area" at the end of the fourth sentence.

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. Pole replacement is an exception to single wooden pole type of construction. Pole replacement shall be completed within 90 calendar days of installation of the new pole including removal of the pole being replaced. The permittee is responsible for compliance with this requirement. 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 circumstances in which public safety is not compromised.

(b) Joint-use single pole construction shall be encouraged, as indicated by Rule 222 of the NESC¹, 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. Every effort should be made to limit utility poles to one side of the highway with joint usage.

Amended by R.1993 d.433, effective September 7, 1993.
See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).
Amended by R.1998 d.401, effective August 3, 1998.
See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

In (a), inserted new second through fourth sentences, and substituted a reference to circumstances for a reference to unusual circumstances in the last sentence; and in (b), added a third sentence.

¹Safety 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, DC 20402).

16:25-5.3 Clearance

(a) The minimum clearances for overhead power and communication lines shall in no case be less than the standards prescribed by the (NESC).

(b) Greater clearances are permissible.

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

Power Line Voltages ¹	Minimum Clearances ³	
	Lateral NESC	Vertical NESC
0-750 volts		
750 volts-50 KV ²	10 feet (3.048 m)	10 feet (3.048 m)

Notes:
1 Voltages are measured phase to ground.
2 Voltages above 50 KV, clearance shall be increased by 0.4 inches (10 mm) per kilovolt.
3 Overhead power lines conforming to either of the following requirements shall adhere to the minimum clearances prescribed by the National Electrical Safety Code (NESC):

i. Cables of any voltage covered with a continuous auxiliary semiconducting shield in combination with

suitable metallic drainage and supported on and cabled together with an effectively grounded bare messenger.

ii. Insulated, nonshielded cable operated at not over five KV phase to phase, or 2.9 KV phase to ground, effectively grounded bare messenger.

(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 NESC	Vertical NESC
0-750 volts		
750 volts-50 KV	NESC	10 feet (3.048m)

Note: Voltages above 50 KV, clearance shall be increased by 0.4 inches (10 mm) per kilovolt.

Amended by R.1998 d.401, effective August 3, 1998.
See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).
Rewrote the section.

16:25-5.4 Location

(a) Utility poles shall be located as close to the right-of-way line as practical. The pole offset shall be five feet (1.5 m) from the right-of-way line. The Department may direct a utility to locate utility poles farther from the right-of-way line. The Department may request a utility to locate utility poles closer to the right-of-way line, and the utility may decline the request based upon one or more of the following factors: closeness of buildings or slopes; existing pole construction type; maintenance requirements; future utility needs; constructability; environmental constraints; public safety; and mitigating conditions such as the existence of parking, auxiliary lanes or excess lane widths which lessen the accident exposure or severity. A utility may apply to the Department for leave to locate utility poles farther from or closer to the right-of-way line, and the Department shall consider the utility's application based upon the Department's consideration of the following factors: closeness of buildings or slopes; existing pole construction type; maintenance requirements; future utility needs; constructability; environmental constraints; public safety; and mitigating conditions such as the existence of parking, auxiliary lanes or excess lane widths which lessen the accident exposure or severity. In no case shall utility poles be located closer than 1.5 feet (0.5 m) distance from the face of the pole to the face of the curb or gutter line.

(b) Utility poles shall be behind the sidewalk and as close to the right-of-way line as practical. When this is not feasible, poles may be placed between the sidewalk and the curb or gutter line, as close to the sidewalk as possible.

(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.

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

Amended by R.1998 d.401, effective August 3, 1998.
See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).
Rewrote the section.

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 (1.2m). 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 (3.8 m) 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 (7.5 m) of the advance of, or after the terminus of, guide rail. Where crash worthy end treatments exist, poles shall be located 50 feet (15 m) longitudinally behind the guide rail's termini. See New Jersey Department of Transportation Design Manual—Roadway for further details.

(c) Placement of poles in islands that do not have a longitudinal through roadway length of 100 feet (30 m) or more is discouraged, except where other locations are unusually difficult and unreasonably costly.

(d) Poles being constructed normal to a bridge in proximity to the structure will maintain a minimum of 40 feet (12 m) offset from the main span of the bridge structure.

(e) Guy wires to ground anchors and stub poles shall not be placed between a pole and the traveled way where they encroach upon the clear zone area. Push brace poles shall not be placed between the utility pole and the traveled way.

(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) 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 (12.2 m) on overall length shall be installed and the attached primary line, at its lowest point, shall have a minimum clearance of 30 feet (9.1 m) 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.

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

Inserted metric measurement references throughout; in (d), inserted "normal to a bridge" following "constructed", and substituted a reference to main spans for a reference to main portions; in (e), substituted a reference to clear zone areas for a reference to clear roadside areas in the first sentence, and added a second sentence; and in (g), substituted "Poles" for "Longitudinal installations of poles" at the beginning.

SUBCHAPTER 6. SCENIC ENHANCEMENT

16:25-6.1 General provisions

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 as set forth in N.J.A.C. 16:25-6.2 through 6.4 are desirable in certain areas that have been acquired or set aside for their scenic quality. Such areas include scenic strips, overlooks, 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. The Department shall make a final decision on each request for variance from such controls.

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

Rewrote the section.

16:25-6.2 Underground utility installations

New underground utility installations in scenic areas are desirable where they do not require extensive removal or alterations of trees or other natural features and do not impair the visual quality of the lands being traversed.

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

Substituted "are desirable" for "may be permitted" following "areas", and deleted "visible to the highway user" following "features".

16:25-6.3 Aerial installations

(a) New aerial installations in scenic areas shall be avoided at such locations where there is a feasible and prudent alternative to the occupation of such locations. 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 will employ suitable placement, designs and material which give adequate attention to the visual qualities of the area being traversed.

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

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.

SUBCHAPTER 7. UNDERGROUND ELECTRIC POWER AND COMMUNICATION LINES

16:25-7.1 General provisions

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.

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

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 (0.9 m).

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 trenchless 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 cased in protective conduit or duct, and the casing shall extend a suitable distance beyond the slope or ditch lines. On curbed sections, the casing should extend outside the outer curbs. On freeways, the casing 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 providing casing 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. At other locations where there may be a need.

3. Where 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 through the entire interchange including the 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).

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

In (a)2, inserted a metric measurement reference; and in (c), substituted references to casing for references to encasement throughout, substituted "Near" for "At" and substituted "need" for "hazard" in 2iii, and substituted "through the entire interchange including the" for "between the interchanges" in 4.

SUBCHAPTER 7A. 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) 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 Department where the Department 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 16:47, as applicable.

(d) 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.

(e) 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.

(f) 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 agreement or permit. Final costs shall be remitted to the Department within 30 days of invoicing for same.

(g) 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.

(h) Installations that adversely affect traffic safety, either present or future, shall not be approved by the Department.

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).

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

Deleted former (c) and (d); recodified former (e) through (i) as (c) through (g); in (c), substituted references to the Department for references to the Commissioner in the second sentence; in (f), inserted a reference to agreements in the second sentence; and added a new (h).

16:25-7A.2 (Reserved)

Repealed by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

Section was "Occupancy permits".

16:25-7A.3 Location

(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 (9 m) 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 Department, at the Department'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 (4.5 m) of the edge of pavement, the facility shall be placed within a 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 Department, at the Department'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 Department, at the Department'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 Department, at the Department'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 Department's sole discretion, alternative locations are not feasible. When attaching to structures, the facility shall be placed within a 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 on limited access highways which cross the ramps or roadways of local, State or limited access highways shall be placed within a 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 Department, at the Department'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) Fiber-optic facilities shall be installed to a depth which permits at least 36 inches (0.9 m) of cover. The utility company shall install along with the facilities a continuous plastic ribbon marking tape at least 12 inches (300 mm) below the existing ground and above the fiber-optic facility. The fiber-optic facility shall be detectable by locator equipment operated on the surface. The width of excavation shall normally not exceed 18 inches (450 mm). Exceptions may be granted by the Department, at the Department's sole discretion, where it is determined that the public good justifies an exception.

(m) Existing fences should be located at the no-access line and replaced in kind when impacted by facility construction.

(n) Installations shall not directly or indirectly cause a loss of productive agricultural land or any productivity of any agricultural land.

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).

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

Inserted metric measurement references throughout; substituted references to the Department for references to the Commissioner throughout; in (a) and (g), substituted references to casings for references to galvanized steel pipe casings; rewrote (h); in (l), substituted references to fiber-optic facilities for references to fiber-optic systems throughout, substituted "36 inches" for "42 inches" in the first sentence, and rewrote the third sentence; and added (m) and (n).

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 manholes or enclosures 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 placed in conduit.

(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 agreement or 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 agreement or 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).

Amended by R.1998 d.401, effective August 3, 1998.
See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

Rewrote (d); and in (e) and (f), substituted references to agreements and permits for references to occupancy permits.

SUBCHAPTER 8. (RESERVED)

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 standards, specifications and/or special provisions in utility permits and agreements.

(b) Care should be taken in utility installation to avoid disturbing existing drainage facilities, including subbase drainage. Underdrains shall be provided for entrapped water where necessary.

(c) Underground utility facilities shall be backfilled with suitable material and drainage outlets provided for entrapped water. No jetting or puddling will be permitted under the roadway.

(d) No material or equipment will be stored on State property except during working operations unless approved by the Department.

(e) The utility shall restore all portions of the work area to accommodate traffic or pedestrians during nonwork hours. The surface shall be restored to a smooth and sound condition which shall meet or exceed preexisting and surrounding conditions.

(f) The utility shall be prohibited from spraying, cutting and trimming of trees without an agreement or a permit issued by the Department pursuant to N.J.A.C. 16:41.

Amended by R.1998 d.401, effective August 3, 1998.
See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

In (a), inserted a reference to standards and substituted a reference to utility permits and agreements for a reference to utility use and occupancy permits in the second sentence; rewrote (b) and (c); and added (d) through (f).

16:25-9.2 Control of traffic

(a) All work performed within State highway right-of-way and property under the jurisdiction of the Department and all signs, markings or other traffic control devices used by the utility shall be in compliance with the "Manual on Uniform Traffic Control Devices for Streets and Highways (1988)," as amended and supplemented, incorporated herein by reference, the NJDOT "Standard Specifications for Road and Bridge Construction (1996)," as amended and supplemented, incorporated herein by reference and the NJDOT "Standard Roadway Construction/Traffic Control/Bridge Construction Details (October 1996)," as amended and supplemented, incorporated herein by reference. The traffic control plan shall be developed and approved for all utility permit work in accordance with N.J.A.C. 16:41. Utility work that is part of a Department construction project will have the traffic control plan prepared and approved in accordance with a utility agreement between the Department and the utility.

(b) The utility shall be responsible for maintaining the uninterrupted flow of traffic at all times, unless otherwise specified in the permit or agreement.

Amended by R.1998 d.401, effective August 3, 1998.
See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).
Rewrote the section.

16:25-9.3 Servicing, maintenance and repairs

(a) All utility facilities shall be kept in good state of repair both structurally and aesthetically.

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

(c) Permission from the Regional Maintenance Permits Office shall be obtained before conducting any scheduled utility activity affecting traffic.

Amended by R.1998 d.401, effective August 3, 1998.
See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

In (b), substituted "permit or agreement shall" for "use and occupancy agreement may"; and added (c).

16:25-9.4 (Reserved)

Repealed by R.1998 d.401, effective August 3, 1998.
See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

Section was "Multiple use of freeway rights-of-way".

SUBCHAPTER 10. PERMITS

16:25-10.1 Application for permit

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 Permits Office in accordance with N.J.A.C. 16:41.

Amended by R.1993 d.433, effective September 7, 1993.
 See: 25 N.J.R. 2217(a), 25 N.J.R. 4111(a).
 Amended by R.1998 d.401, effective August 3, 1998.
 See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).
 Rewrote the section.

16:25-10.2 (Reserved)

Repealed by R.1998 d.401, effective August 3, 1998.
 See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).
 Section was "Opening permits".

16:25-10.3 (Reserved)

Repealed by R.1998 d.401, effective August 3, 1998.
 See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).
 Section was "Deposit or bond".

16:25-10.4 (Reserved)

Repealed by R.1998 d.401, effective August 3, 1998.
 See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).
 Section was "Approval and issuance".

16:25-10.5 (Reserved)

Repealed by R.1998 d.401, effective August 3, 1998.
 See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).
 Section was "Acceptance of license or permit".

16:25-10.6 (Reserved)

Repealed by R.1998 d.401, effective August 3, 1998.
 See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).
 Section was "Notice of starting work".

16:25-10.7 (Reserved)

Repealed by R.1998 d.401, effective August 3, 1998.
 See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).
 Section was "Permit to be kept on job".

16:25-10.8 (Reserved)

Repealed by R.1998 d.401, effective August 3, 1998.
 See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).
 Section was "Occupancy by unwritten consent".

16:25-10.9 (Reserved)

Repealed by R.1998 d.401, effective August 3, 1998.
 See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).
 Section was "Right to revoke or annul permit".

16:25-10.10 (Reserved)

Repealed by R.1998 d.401, effective August 3, 1998.
 See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).
 Section was "Responsibility for costs".

SUBCHAPTER 11. SPECIAL PERMITS AND AGREEMENTS

16:25-11.1 Railroad crossings

(a) The Commissioner of the Department 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 the Department 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 or at another convenient location 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 commenters in writing.

5. The Department shall issue a decision based on the diagnostic team's recommendations and taking into account the comments received.

6. Any applicant 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).

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

In (c), inserted "or at another convenient location" following "crossing" in 1, and added 5; and recodified former (d) as (c)6, and substituted a reference to persons for a reference to applicants.

Administrative correction.

See: 30 N.J.R. 3853(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 Aid. Until a county or municipality adopts a utility accommodation policy approved by the Department conforming to Federal requirements, the Utility and Railroad Engineering Unit 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 23 CFR 645B.

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

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

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

In (b), changed bureau names.

16:25-11.3 Private utilities

(a) Requests for permits by private persons or concerns to cross, occupy, or use 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 or agreements 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 involve more than a road crossing or a relatively short segment of parallel line (for example, up to 1/8 mile (200 m)), or where equivalent utility service is available without the private line installation, then the request shall be reviewed for legal propriety of the requested use. 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).

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

In (a), substituted a reference to freeways for a reference to Interstate freeways, and inserted a reference to agreements; and in (b), rewrote the first sentence.

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 in accordance with N.J.A.C. 16:41.

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

Added "in accordance with N.J.A.C. 16:41" at the end.

SUBCHAPTER 12. UTILITY RELOCATIONS AND ADJUSTMENTS

16:25-12.1 Reimbursement

(a) Public utilities and cable television companies are entitled to reimbursement for the costs and expenses of the relocation and removal of their facilities as provided in N.J.S.A. 27:7-44.9a.

(b) Compensation for the acquisition of any property or any property rights or interests of utilities and cable television companies by the Department shall be in accordance with the provisions of the Eminent Domain Act of 1971, N.J.S.A. 20:3-1 et seq.

(c) The reimbursement of utilities for the cost of relocations and adjustments of existing utility lines, systems and facilities required by a highway project will be in accordance with the procedures set forth in 23 CFR 645A.

(d) The Department shall make the contractual arrangements and reimburse for eligible adjustments on all projects whose construction is administered by the Department.

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

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

Amended by R.1998 d.401, effective August 3, 1998.

See: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

Rewrote the section.

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.

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.