

**CHAPTER 65**

**TRANSPORTATION UTILITIES**

**Authority**

N.J.S.A. 27:1A-5, 27:1A-6, 48:2-12, 48:2-13 and 52:14B-3; and the October 5, 1978 Executive Reorganization Plan.

**Source and Effective Date**

R.2008 d.22, effective February 4, 2008.  
See: 38 N.J.R. 5330(a), 40 N.J.R. 796(a).

**Chapter Expiration Date**

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 65, Transportation Utilities, expires on February 4, 2015. See: 43 N.J.R. 1203(a).

**Chapter Historical Note**

Chapter 65 was recodified as N.J.A.C. 16:44. See: 15 N.J.R. 1772(a).

Chapter 65, Transportation Utilities, was adopted as new rules by R.2008 d.22, effective February 4, 2008. See: Source and Effective Date.

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## SUBCHAPTER 1. GENERAL PROVISIONS

**16:65-1.1 Scope**

(a) This chapter governs the practice and procedures before the Department of Transportation regarding transportation utility matters, other than contested case hearings, and sets forth the operational and administrative duties of transportation utilities. The Department may impose restrictions upon transportation utilities as public convenience and necessity requires.

(b) Upon determination that a matter constitutes a contested case, 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, shall apply.

(c) This chapter shall be liberally construed to permit the Department to effectively carry out its statutory functions and to secure just and expeditious determinations of matters presented to the Department.

(d) When compliance will be unduly burdensome, impractical, or otherwise not in the public interest, the Department may relax or permit deviations from this chapter. Requests for a waiver from the provisions of this chapter shall be made in writing to the Director and shall include an explanation of the provisions to be waived and a justification for that waiver. The requestor shall be advised of the Department's decision in writing. The Department's decision shall be final.

(e) This chapter is applicable to transportation utilities to the extent not otherwise prohibited by the Federal Constitution and Federal law.

(f) A certificate may be suspended when the utility has State tax indebtedness, pursuant to N.J.S.A. 54:50-26.3.

**16:65-1.2 Definitions**

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

"Answer" means the pleading filed in response to a motion or a complaint petition.

"Certificate of operation" or "certificate" means a final administrative order of the New Jersey Department of Transportation granting authority to a person to operate a transportation utility passenger service within the State of New Jersey.

"Commissioner" means the Commissioner of the Department of Transportation or the Commissioner's designee.

"Complaint petition" means a petition or a letter, by which a party seeks to have the Department invoke its jurisdiction for the purpose of enforcing the New Jersey Revised Statutes, the New Jersey Administrative Code or Departmental directives and orders against a transportation utility.

"Department" means the New Jersey Department of Transportation.

"Director" means the Director of the Division of Intermodal Services, or any other person duly authorized by the Commissioner to act in such a capacity.

"Division" means the Division of Intermodal Services in the New Jersey Department of Transportation.

"Intervenor" means a movant whose motion to intervene has been granted by the Department, and who thereby has standing to, among other things: present testimony to the Office of Administrative Law in contested cases; cross-examine witnesses in such cases; and to file exceptions, and replies thereto, to initial decisions of the Office of Administrative Law.

"Motion to Intervene" means the pleading filed by a party requesting leave to intervene in a proceeding before the Department.

"Movant" means a person that has filed a motion with the Department.

"Person" means an individual, corporation, partnership, association, group of persons or organizations, or any body politic, political subdivision or governmental instrumentality.

"Personal property" means, but is not limited to, rolling stock, cars, locomotives and other tangible personal property of a railroad company, and also the locomotives and cars not belonging to such railroad company, but built for its use and actually used in this State, or run under its control in this State. The rolling stock of other persons or corporations temporarily used on any such railroad, but not forming part of the equipment of such railroad, shall not be included in the term.

"Petition" means the pleading filed to initiate a proceeding invoking the jurisdiction of the Department.

"Petitioner" means a person who has filed a petition with the Department or, in the case of a petition for transfer, the person who is the proposed certificate holder.

"Proposed service area" means, in the case of a petition concerning regular route service, the proposed or the approved route plus that area within one and one-quarter miles of any passenger pickup or drop off point on the petitioner's proposed or approved route.

"Reply" means the pleading filed by the intervenor in response to an answer.

"Respondent" means any party against whom a complaint petition is directed.

"Service area" means, in the case of a petition for discontinuance of passenger service, that area which constitutes a one and one-quarter mile radius from any passenger pickup