

CHAPTER 25

UTILITY ACCOMMODATION

Authority

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

Source and Effective Date

R.2009 d.84, effective February 6, 2009.
See: 40 N.J.R. 6761(a), 41 N.J.R. 1266(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 25, Utility Accommodation, expires on February 6, 2016. See: 43 N.J.R. 1203(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. Chapter 25, Utility Accommodation, 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 Subchapter 8, Irrigation and Drainage Pipes, Ditches, and Canals, was repealed by R.1993 d.433, effective September 7, 1993.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: 30 N.J.R. 1755(a), 30 N.J.R. 2940(a).

Chapter 25, Utility Accommodation, was readopted as R.2004 d.34, effective December 22, 2003. See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Chapter 25, Utility Accommodation, was readopted as R.2009 d.84, effective February 6, 2009. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

16:25-1.1 Definitions

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

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

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

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

“Border area” is the space between the outer edge of a 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” means the depth of the top of a pipe or conduit system below the grade of a roadway or roadside.

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

“Carrier” means a 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 the 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 Part 645, Subpart A.

“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 controlled by the Department to give preference to through traffic either:

1. Fully with access connections at selected public roads and with prohibited crossings at grade or prohibited direct driveway connections; or

2. Partially with some crossings at grade and some driveway connections in addition to access connections at selected public roads.

“Coordinating authority” means the individuals authorized by the Commissioner of the Department of Transportation to prepare utility agreements covering rearrangement and/or occupancy by utilities on highways in connection with all Department administered road construction and/or improvement projects.

“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 the 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” or “NJDOT” means the New Jersey Department of Transportation.

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

“Drain” means an 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 steady thrusting, hammering, or vibrating.

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

“Expressway” means a divided arterial highway for through traffic generally with grade separations at inter-sections.

“Facility” or “facilities” 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 a 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 the 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 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 owned or under the jurisdiction of the Department, including the entire area within the right-of-way, for purposes of travel.

“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.

“Intersection” means the area where two or more highways join or cross, including the roadway and roadside facilities for traffic movements within the area.

“Land service highway” means a 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 limited access highways.

“Manhole” means an opening in an underground system providing access to utility facilities for the purpose of making installations, inspections, repairs, connections and tests. The term includes chambers or vaults.

“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 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 approves the use and occupancy of highway right-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 formed hollow cylinder used for the conveyance of liquids or gases. Cylinders fabricated from plate are not pipe as defined herein.

“Pressure” means the 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 right-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 whatsoever, their successors, heirs or assigns, that now or hereafter may own, operate, manage or control within the State of New Jersey any railroad, street railway, traction railway, autobus, charter bus operation, special bus operation, canal, express, subway, pipe line, gas, electric, water, oil, sewer, solid waste collection, solid waste disposal, telephone or telegraph system, plant or equipment for public use under privileges granted by the State of New Jersey 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.

“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 Department’s Executive Director of Regional Operations.

“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 a 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 a 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 a slab between, but not contacting a pipe or pavement.

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

“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, auxiliary lanes and bicycle lanes.

“Trenched” means installed in an open excavation.

“Trenchless” means installed without breaking the 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” or “utilities” 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 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 for the installation, removal and/or relocation of its facilities. The utility agreement further serves as the permit to occupy highway right-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 usually through risers or standpipes projecting above the ground surface. 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.

“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.

Amended by R.2004 d.34, effective January 20, 2004.
See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Rewrote the section.

16:25-1.2 Right-of-way

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

(b) The rules contained in this chapter formally establish the criteria used by the Department in controlling the occupancy of utilities within the right-of-way of highways, streets and roads.

(c) Utility facilities installed within highway right-of-way require either a permit issued by the Department pursuant to N.J.A.C. 16:41 or a utility agreement, as defined in this chapter, with the coordinating authority. All other permits required for facility installation, whether from the Department or other outside parties or agencies, shall be the responsibility of the installing utility company. Proof of permits must be supplied to the Department prior to issuance of the agreement or permit.

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.
Amended by R.2004 d.34, effective January 20, 2004.
See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

In (b), substituted "utilities within right-of-way" for "the use of rights-of-way", deleted "State", substituted "streets and roads" for "parkways and freeways"; added (c).

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 right-of-way owned by or under the jurisdiction 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 are subject to the requirements of this chapter. However, any amendments to this chapter effective August 3, 1998 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.
Amended by R.2004 d.34, effective January 20, 2004.
See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).
In (a), substituted "right-of-way owned by or under the jurisdiction" for "rights-of-way under the auspices"; in (b), substituted "August 3, 1998" for "the effective date of the adopted amendments".

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 within highway right-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 the Department 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.

Amended by R.2004 d.34, effective January 20, 2004.
See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

In (a), substituted "utilities within" for "utilities on", and "the Department" for "highway authorities".

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 Department's "Standard Specifications for Road and Bridge Construction," 2001, as amended or superseded; the Department's "Standard Roadway Construction/Traffic Control/Bridge Construction Details," 2001, as amended or superseded; the current Department's Design Manual—Roadway; the American Association of State Highway and Transportation Officials' Guide for Accommodating Utilities within Highway Right-of-Way¹; the Federal Highway Administration's Manual on Uniform Traffic Control Devices for Streets and Highways, 2000, as amended or superseded; and currently applicable Federal Highway Administration 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.
Amended by R.2004 d.34, effective January 20, 2004.
See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).
Rewrote (b).

¹Guide 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 land service highways

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

1. Electric companies—N.J.S.A. 48:7-1.2;
2. Telephone companies—N.J.S.A. 48:17-8, 10;
3. Telegraph poles—N.J.S.A. 48:17-16;
4. Sewer lines—N.J.S.A. 48:13-10, 11;
5. Water lines—N.J.S.A. 48:19-17;
6. Gas lines—N.J.S.A. 48:9-17, 25.4.
7. Electric poles—N.J.S.A. 40:62-35;
8. Water lines—N.J.S.A. 40:62-134 and 40:178-40;
and
9. 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.
Amended by R.2004 d.34, effective January 20, 2004.
See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).
Rewrote the section.

16:25-1.7 Authority of utilities to use and occupy limited access highways

(a) Any usage of limited access highway right-of-way is subject to the discretion of the Department.

(b) The Department has excluded utilities from use and longitudinal occupancy of limited access highway right-of-way. Public utilities as defined by N.J.S.A. 48:2-13 will be considered by the Department for permission to longitudinally occupy limited access highway right-of-way when it can be demonstrated to the satisfaction of the Department that extreme cases of need exist, that it can be shown to be in the best public interest and that the safety criteria enumerated in (b)2 below can be met.

1. The Department will take the following under consideration when evaluating claims of extreme cases of need:

i. 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;

ii. That the accommodation will not adversely affect the design, construction, operation, maintenance, or stability of the limited access highways;

iii. That it will not interfere with or impair the present use or future expansion of the limited access highways; and

iv. 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.

2. The Department will apply the following safety criteria:

i. The public utility facility shall be placed underground;

ii. 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;

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

iv. 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

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

(c) Every longitudinal occupancy installation shall be made in accordance with the provisions as specifically outlined in N.J.A.C. 16:25-7A.

(d) Every longitudinal occupancy installation agreement or permit shall specify a utility access control line between the proposed utility installation and the through roadway and ramps.

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

(f) The Commissioner of the Department may 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).

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Rewrote the section.

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.

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

In (a), deleted the first and second sentences; in (c), substituted "perpendicular" for "normal"; in (e), inserted "present or future" preceding "safety of highway traffic"; rewrote (f) and (g).

SUBCHAPTER 2. GENERAL CONSIDERATIONS

16:25-2.1 Location of utility facilities

(a) Utility facilities must be located to permit servicing such facilities with minimum interference to highway traffic and to minimize the 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 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 perpendicular 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 present or future safety of highway traffic.

(f) The location of all installed utility facilities shall be referenced to established survey lines or the Department's geodetic survey system and those permanent records maintained by the utility.

(g) In all cases, installations shall be in conformance with the Department's Soil Erosion and Sediment Control Standards pursuant to N.J.A.C. 16:25A.

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

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

New (g) added upon adoption.

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 right-of-way or attached to a highway structure.

(b) The Department will 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, appearance of the highway, and the integrity of the utility facility, and whether the utility facilities will interfere with planned highway facilities or with highway maintenance and operation processes.

(c) Utility installations on, over, or under highway right-of-way 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 Code¹.

2. Water lines shall conform with the currently applicable specifications of the American Water Works Association².

3. Pressure pipelines shall conform with the currently applicable sections of the Standard Code of Pressure Piping of the American National Standards Institute³; 49 C.F.R. 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 highways⁴.

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 Code¹.

(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 installations on, over, or under highway right-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 installations 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.

(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.

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.

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

In (b), deleted "maintenance" preceding "appearance", inserted "and whether the utility facilities will interfere with planned highway facilities or with highway maintenance operation processes" at the end; in (c), introductory paragraph substituted "highway right-of-way" for "the rights-of-way of State highways"; in (f), substituted "installations" for "installments"; added (g).

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 was designed, constructed, or improved with 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.

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

In (b), substituted "was designed, constructed, or improved with" for "involves".

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 perpendicular to the highway alignment as practical.

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

1. In deep cuts;
2. Near footings of bridges and retaining walls;
3. Across intersections at grade or ramp terminals;
4. At cross drains and culverts where the watercourse flow will be obstructed;
5. Within a watershed area drained by a pump, if the pipeline carries a liquid or a liquefied 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 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 highway structure or other highway or utility facilities should be sufficient to permit maintenance of the pipeline and the other facilities.

Amended by R.2004 d.34, effective January 20, 2004.
See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

In (a), substituted "perpendicular" for "normal"; in (b), inserted "a highway" following "crossing" and deleted "such as" at the end of the introductory paragraph, rewrote 4 and 5; in (d), inserted "highway" preceding "structure"; and deleted (e).

16:25-3.2 Bury

(a) The critical controls for the depth pipeline crossings are buried 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, other 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.

(e) Pipelines shall be buried 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.

(f) The bury 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.

(g) 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 (e) above.

Amended by R.2004 d.34, effective January 20, 2004.
See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

In (a), substituted "depth pipeline crossings are buried" for "bury over a pipeline crossing" preceding "are the low points"; in (c), inserted "other" preceding "buried utility lines"; added (e), (f) and (g).

16:25-3.3 (Reserved)

Repealed by R.2004 d.34, effective January 20, 2004.
See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Section was "Controls for the bury of pipelines".

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) Casings shall be used for the following conditions:

1. As an expediency in the insertion, removal, replacement or maintenance of carrier pipe crossings of limited access highways and at other locations where it is necessary to avoid open trenched construction;
2. As protection for carrier pipes 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 be cased. Exceptions may be made where assurance can be provided against damage to the protective coating.

(c) Casings or other suitable protection shall be used for any pipeline:

1. With less than minimum bury;
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 the pavement would be impaired by depression of flexible carrier pipe.

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

(f) Casings 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 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.

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Rewrote the section.

16:25-3.6 Uncased pipelines

(a) When uncased installations are permitted, the following 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 the Department and utility officials are satisfied that the pipelines are, and will remain, structurally sound and operationally safe.

2. The carrier pipe shall conform to the material and design requirements of utility industry and governmental codes and specifications plus be designed to support the load of the highway plus the superimposed loads thereon when the pipe is operated under all ranges of pressure from maximum internal to zero pressure. Such installations should 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.

(b) Any waiver of casing is the sole discretion of the Department at any location and will be determined on a case-by-case basis.

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).

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

In (a), deleted "controls" preceding "shall be applied" in the introductory paragraph, substituted "the Department" for "highway" and "pipelines" for "lines" in 1, rewrote 2; added (b).

16:25-3.7 Appurtenances

(a) The following shall apply for appurtenances to pipeline installations such as vents, drains, markers, manholes, and shut-offs:

1. Vent standpipes shall be located and constructed so as not to interfere with the maintenance of the highway nor to be concealed by vegetation. Vents should stand close to the right-of-way line and should not affect pedestrian traffic.

2. Drains shall not outfall into roadside ditches or natural water courses.

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

4. New manholes shall not be located in the pavement of 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). Practicable effort shall be made to minimize such installations and to avoid their location at intersections at grade or within the traveled way. 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 the ends of structures and near 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).

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Rewrote the section.

16:25-3.8 Restriction against varied use

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

1. Pipeline installation permits will 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 shall notify the Department, through the Regional Maintenance Office, 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.

Amended by R.2004 d.34, effective January 20, 2004.
See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

In (a)2, substituted "shall notify" for "will be required to give" and deleted "advance notice" following "Regional Maintenance Office."

16:25-3.9 Installation

(a) Pipelines shall be installed and tested in accordance with the Minimum Federal Safety Standards of the U.S. Department of Transportation as published in 49 C.F.R. Part 192, and any amendments thereof and other applicable Federal and State of New Jersey regulations.

(b) The installation or replacement of pipelines along or crossing existing highways shall be controlled by Department specifications. However, the 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.

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Added (a); designated former text as (b).

16:25-3.10 Trenched construction and backfill

(a) Trenched construction, bedding and backfill shall conform to the Department's standard specifications set forth in N.J.A.C. 16:25-1.5(b).

(b) The design and construction of trenches and backfill shall include:

1. Restoration of the structural integrity of the roadbed within the trenched area;
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.

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).

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Rewrote the section.

16:25-3.11 Trenchless construction and grouting

(a) Acceptable techniques for installing pipelines under a highway without disturbing the surface are driving, coring, and boring. Wet-boring will be permitted by the Department if all other techniques are impractical. Special care is required when using this method.

(b) The design and construction of pipelines under highways shall include:

1. Trenchless construction for all new or replacement pipeline crossings of highways. On limited access highways, at a minimum, the trenchless construction shall extend under and across the entire roadway prism. On other highways, the trenchless construction shall extend under and across the surfaced area of the highway;
2. Portal limits of pipeline crossings. The portal limits shall be beyond the surfaced areas of the highway to avoid impairing the roadway during the installation of the pipeline; and
3. Restricted size of the boring excavation. The Department will establish, on a case-by-case basis, the conditions 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.

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Rewrote the section.

16:25-3.12 Utility tunnels and bridges

(a) The Department may require that a utility tunnel or a bridge be constructed for a pipeline crossing a limited access highway when it can be foreseen that several utility crossings will be needed, or 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. The Department will take steps as necessary to insure that adequate study is made by the utilities to anticipate their needs for future crossings and to converge their facilities to a joint use single crossing.

(b) In a tunnel or bridge that will serve multiple utilities, 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.

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Rewrote (a); in (b), deleted "combined" preceding "tunnel or bridge" and inserted "that will serve multiple utilities" preceding "provision".

16:25-3.13 Adjustment

(a) The following shall apply to 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 the subgrade or determined to be too close to the highway grade.
3. An existing pipeline that is 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 bury 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 will be advised by the Department and be 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 by the contractor to 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.

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

In (a), substituted "shall apply to" for "are required controls for" in the introductory paragraph, substituted "bury" for "cover" in 4, substituted "advised by the Department" for "warned" in 5.

(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 the low point of the superstructure steel or masonry. However, the following restrictions shall apply:

1. No utilities shall be placed in the deck, sidewalk or parapet of a bridge.
2. No utility shall be placed outside the parapet where people may walk on it.
3. Gas, water and sewer mains shall not be placed in box beams or other enclosed areas.
4. 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.
5. Utility facilities shall not be supported by a system which requires inserts in the concrete deck slab.
6. Conglomeration of utilities in the same bay should be avoided in order to facilitate inspection and painting of the structure.
7. Appropriate devices must be provided at the locations of joints in the bridge deck to accommodate movement.
8. Galvanized structural steel shall be utilized for supports where structural elements cannot be utilized to carry loads.
9. Welding to structural steel beams is not permitted.
10. Ducts shall be provided for electrical and communication cables.
11. Pipes carrying liquids under pressure should be sleeved within 10 feet (three meters) of abutments, walls and piers.
12. 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 provisions of N.J.A.C. 16:25-3.5, 3.6, 3.7(a)5 and 3.8 shall also 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 shall 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.

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 shall be avoided where it is practicable to locate utility facilities elsewhere. Attaching utility lines to a highway structure can materially affect the structure, the safe operation of traffic, and the efficiency of maintenance, as well as the appearance of the structure and the vulnerability of both the utility lines and the structure and, therefore, shall be provided for during the design stage.

(d) Since a casing is not normally provided for a pipeline attachment to a bridge, additional protective measures shall be taken, including employing a higher factor of safety in the design, construction, and testing of the pipeline.

(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 shall be suitably insulated from electric power line attachments.

(f) Guy wires supporting any utility facility shall not be attached to a bridge structure.

(g) Cell phone or other type antennas shall not be mounted from or on any bridge or sign supported 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.

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Rewrote the section.

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 ground-mounted 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) Above ground utilities are restricted in certain locations as follows:

1. No above ground facilities shall be located within grade separated interchange areas of limited access highways.

2. No aerial crossing of limited access highway right-of-way are permitted with the exception of electrical facilities operating at a potential of 26 KV or above.

(c) When replacing an existing pole, the utility shall remove the existing pole within 90 calendar days following installation of the new pole.

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. Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

In (b), rewrote the introductory paragraph; added (c).

16:25-5.2 Type of construction

(a) Any longitudinal installation of overhead lines on the highway right-of-way shall be limited to single wooden pole type of construction. The Department, however, will consider utility requests to use a non-wooden pole type of construction when an existing pole is replaced 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.

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Rewrote (a).

¹ Safety Rules for the Installation and Maintenance of Electric Supply and Communication Lines, current issue, National Bureau of Standards, U.S. Department of Commerce (for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, 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 National Electric Safety Code (NESC).

(b) 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.

(c) 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.

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Deleted (b); recodified former (c) and (d) as (b) and (c).

16:25-5.4 Location

(a) Utility poles shall be located as close to the right-of-way line as practical, preferably five feet (1.5 m) from the right-of-way line. The Department will consider utility requests to locate utility poles farther from or closer to the right-of-way line based upon 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.

(b) Utility poles shall be located as far as practical from the curb or gutter line and behind the sidewalk. 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. In no case shall the face of the utility poles be located closer than 1.5 feet (0.5 m) from the face of the curb or gutter line.

(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.

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Rewrote (a) and (b).

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) Utility poles shall always be located behind guide rail, and the desirable offset of the face of the pole behind the back of the rail is four feet (1.2 m). However, at a minimum, the face of the pole shall be either no closer than one foot (0.3 m) from the back of the rail or no closer than 0.5 feet (0.15 m) from the back of the guide rail post. When the poles are set at less than the desirable offset, the utility shall be responsible for modifying, or for the cost of modifying, the guide rail to provide reduced post spacings and double rails for the lengths required on either side of the pole. See the Department's Design Manual—Roadway and Standard Roadway Construction Details set forth in N.J.A.C. 16:25-1.5(b) for further details.

(b) Utility poles shall not be placed longitudinally within 25 feet (7.5 m) in advance of, or after the terminus of, a guide rail. Where crash worthy end treatments exist, poles shall be located 50 feet (15 m) longitudinally behind the guide rail's termini. See the Department's 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. See the Department's Design Manual—Roadway for further details.

(d) Poles being constructed perpendicular to a bridge in proximity to the structure shall maintain a minimum of 40 feet (12 m) offset from the edge of the deck or from outside of the parapet 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 installation 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 right-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.

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Rewrote (a); in (b), substituted "Utility poles shall" for "Poles shall always be located behind guide rail wherever same exists and should", "in" for "of the" preceding "advance of"; in (c), added last sentence; in (d), substituted "edge of the deck or from outside of the parapet" for "main span" preceding "of the bridge structure"; in (h), substituted "installation" for "criteria".

ance, 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, scenic overlooks, rest areas, recreation areas, and the right-of-way of highways adjacent thereto, and the right-of-way of sections of highways which pass through parks, recreation areas, wildlife and waterfowl refuges and historic sites. The Department will decide each request for variance from such controls on a case-by-case basis.

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.

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Inserted "scenic" following "scenic strips", substituted "will decide" for "shall make a final decision on", inserted "on a case-by-case basis" at the end.

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 practicable 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).

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

In (a), substituted "practicable" for "feasible and prudent" in the introductory paragraph.

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

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 right-of-way can materially alter the scenic quality, appear-

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

Acceptable methods for undergrounding electric power and communication lines include trenching for conduit, duct construction, and uncased buried cable; 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).
Amended by R.2004 d.34, effective January 20, 2004.
See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).
Rewrote the section.

16:25-7.2 Requirements for underground electric power and communication lines

(a) General requirements for underground electric power and communication are as follows:

1. Underground utility construction shall conform to all applicable codes, standards, and specifications.
2. The minimum bury is 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. Consideration should be given for placing spare conduit or duct to accommodate known or planned expansion of underground lines, particularly on crossings of the highway.
5. The provisions in N.J.A.C. 16:25-4 for electric power and communication line attachments to highway bridge structures shall be followed.
6. The provisions in N.J.A.C. 16:25-3 for pipelines as they 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) Conditions which are generally unsuitable or undesirable for underground crossing of a highway 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 watercourse flow will be obstructed;

5. Within a watershed area drained by a pump; and
6. In wet or rocky terrain where it will be difficult to attain minimum bury.

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

1. Underground lines that cross highways 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 highways, the casing should extend outside the outer curbs. On limited access highways, the casing shall extend beyond 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. When bored installations are proposed by the utility, the utility shall furnish the Department with information about the controls and construction methods to be employed.
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.
Amended by R.2004 d.34, effective January 20, 2004.
See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).
Rewrote the section.

SUBCHAPTER 7A. UTILITY FACILITIES LONGITUDINALLY OCCUPYING LIMITED ACCESS HIGHWAY

16:25-7A.1 General considerations

(a) 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 of access line. 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, and in consultation with the Federal Highway Administration, as applicable.

(b) The public utility company shall defend, indemnify, protect and, save harmless the State of New Jersey and the Department 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.

(c) The public utility company shall defend, indemnify, protect and save harmless the State of New Jersey and the Department 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.

(d) 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 will 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.

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

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

Revised (c) and (d).

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

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

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).

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Rewrote the section.

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, pursuant

to N.J.A.C. 16:25-1.7(b). 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 cased.

(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, pursuant to N.J.A.C. 16:25-1.7(b).

(d) Transverse installations associated with longitudinal occupancy of the limited access highway shall occur within interchange areas, with possible exceptions to be granted by the Department, at the Department's sole discretion, pursuant to N.J.A.C. 16:25-1.7(b) and 16:25-2.1(c).

(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, pursuant to N.J.A.C. 16:25-1.7(b).

(f) Facilities attached to structures shall be encased pursuant to N.J.A.C. 16:25-4.1.

(g) Installations along limited access highways which cross the ramps or roadways of other highways, whether owned or under Department or local jurisdiction, shall be placed within a casing.

(h) 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.

(i) 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, pursuant to N.J.A.C. 16:25-1.7(b). When connections are permitted they shall be accomplished as close as feasible to the highway's right-of-way line.

(j) Fiber-optic facilities shall be buried at least 60 inches (1.5 m). 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 not exceed 18 inches (450 mm). Exceptions may be granted by the Department, at the Department's sole discretion, pursuant to N.J.A.C. 16:25-1.7(b).

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

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).

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Rewrote the section.

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) 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.

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Deleted former (e); recodified existing (f) as (e).

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 shall be taken in utility installation to avoid disturbing existing drainage facilities, including subbase drainage. Underdrains shall be provided to prevent entrapped water where necessary.

(c) Underground utility facilities shall be backfilled with suitable material. No jetting or puddling will be permitted under the roadway.

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

(e) The utility shall restore all portions of the work area to accommodate traffic and pedestrians during nonwork hours. The surface shall be restored to a smooth and sound condition which shall meet or exceed the conditions prior to construction. Further, the surface shall be maintained in this type of condition on a 24 hour a day, seven days a week basis during the duration of the work until Department acceptance. The utility shall provide the Department with a list of emergency contacts should the Department need to contact the utility to arrange for such maintenance.

(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).

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

In (b), substituted "to prevent" for "for"; in (c), deleted "and drainage outlets provided for entrapped water"; rewrote (e).

16:25-9.2 Control of traffic

(a) All work performed within 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 standards set forth in N.J.A.C. 16:25-1.5(b). 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 shall 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.

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Rewrote (a).

16:25-9.3 Servicing, maintenance, and repairs

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

(b) 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).

Amended by R.2004 d.34, effective January 20, 2004.
See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Deleted former (b); recodified existing (c) as (b).

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 right-of-way or property under the jurisdiction of the Department, 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.

Amended by R.2004 d.34, effective January 20, 2004.
See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Substituted "right-of-way" for "State Highway rights-of-way", inserted "under the jurisdiction of the Department" preceding "a written application".

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 has plenary power over all public railroad crossings in the State of New Jersey, 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. Where the railroad is over the highway, the Department will determine the vertical and horizontal under clearances and the railroad and the Department shall approve the structure of the crossing;

ii. Where the railroad is under the highway, the railroad shall determine the vertical and horizontal under clearances and the Department and the 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, after he or she exercises the evaluation, public information and response process delineated in (c) below.

ii. Private at-grade crossings occur at locations other than public thoroughfares, and the Commissioner of the Department 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 have opinions, or who have questions or comments regarding the proposed crossing to submit their opinions, questions or comments to the Department;

4. The Department will respond to commenters in writing;

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

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 I, 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).

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

In (b), substituted "Where" for "For grade-separated crossings where" at the beginning in Ii and Iii, "at locations" for "in areas", and "of the" for "normally in Iii; in (c), substituted "have opinions" for "object" and "opinions" for "objections" in 3.

16:25-11.2 Local Federal-Aid Agreements

(a) Pursuant to the provisions of 23 C.F.R. Part 645, Subpart B, the Department will 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 Local Government Services. Until a county or municipality adopts a utility accommodation policy approved by the Department conforming to Federal requirements, the coordinating authority will 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 C.F.R. Part 645, Subpart B.

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

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

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.

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

Amended reference to C.F.R. throughout; in (b), substituted "Local Government Services" for "Bureau of Local aid" and "coordinating authority will" for "Utility and railroad Engineering Unit shall".

16:25-11.3 Private utilities

(a) Requests for permits by private persons or concerns to cross, occupy, or use highways, or Federal-Aid Road right-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 their 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 $\frac{1}{4}$ 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 Roads 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.

Amended by R.2004 d.34, effective January 20, 2004.

See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

In (a), deleted "freeways, State", substituted "their" for "its"; in (c), substituted "Roads" for "highways".

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 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.
Amended by R.2004 d.34, effective January 20, 2004.
See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).
Deleted "normal" preceding "review and processing".

16:25-11.5 Location of utility facilities within State owned railroad right-of-way

(a) Requests for permits to cross, occupy, or use Department owned railroad right-of-way shall be treated as special cases; the review, approval, and issuance of any such permits or agreements for the accommodation of such facilities shall be based on the merits of the requests as to its necessity and location.

(b) All such facilities must meet all applicable provisions of this chapter and any additional standards, specifications, or requirements decided by the Department on a case-by-case basis.

(c) All installation of underground facilities shall be trenchless unless approved by the Department.

(d) When applicable, additional agreements or conditions may be required from the appropriate party that has operating rights over the railroad right-of-way or is responsible for the maintenance of such right-of-way.

New Rule, R.2004 d.34, effective January 20, 2004.
See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).

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 will 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 C.F.R. Part 645, Subpart A.

(d) The Department will 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.
Amended by R.2004 d.34, effective January 20, 2004.
See: 35 N.J.R. 3280(a), 36 N.J.R. 429(a).
In (c), amended the C.F.R. reference.

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.