

200 - ADMINISTRATIVE PROCEDURES**SECTION 201 - GENERAL****201.01 Authority to Issue Permits to the SH ROW**

- (a) The Department has the authority, and the primary responsibility, to issue permits for utility accommodations on all SH ROW, including on state highways that are also local streets within the jurisdiction of a local agency.

If an application requests a utility accommodation on a state highway that is also a local street within the jurisdiction of a local agency, the Department will, if requested by the local agency, consult with the local agency before the Department acts on the application and/or the terms and conditions of the permit.

- (b) The Department may, upon written request by a local agency and prior approval thereof by the Department, delegate the authority described in subsection (a) above to a local agency for state highways within its jurisdiction, subject to the following conditions:
- (1) The local agency's written request must be executed by the person authorized to obligate the local agency on utility matters, such as the mayor or city manager.
 - (2) Under any delegation, the Department will remain the sole issuing authority for utility permits on all state highways designated as "freeways", notwithstanding that portions of the freeway are within the jurisdiction of the local agency.
 - (3) Any permit issued by the local agency shall include all terms and conditions necessary to, at a minimum, ensure compliance with the Code.
 - (4) Upon written request from the local agency, the Department will assist on permit applications received by the local, including: reviewing an application; recommending permit action; and/or preparing a permit for local agency issuance.
 - (5) If requested by the Department, the local agency shall promptly furnish the Department with copies of permits issued, and of applications denied together with reasons for denial.
 - (6) The local agency shall be primarily responsible to ensure compliance with all terms and conditions of any permit it issues, and to hear and decide any appeals of its permitting decisions.

- (7) The permit shall expressly provide that the Department may, at any time, inspect the site of work authorized by the permit.
- (8) Any locally adopted utility accommodation standards that are imposed through a permit shall, at a minimum, meet the applicable requirements of this Code.
- (9) The permit shall expressly provide that the Department shall retain authority to take immediate action concerning permitted work to attain compliance with the Code, or with permit conditions, or as otherwise required for the public health, welfare, or safety.
- (10) The local agency may relinquish the delegated authority upon written notice to the Department, and the Department may withdraw its delegation of authority upon written notice to the local agency.
- (11) The Department reserves the right to issue utility relocation permits.

201.02 Responsibility for Utility Accommodation Costs

- (a) The utility shall be responsible for all costs of the accommodation of its facilities within the SHROW, or their relocation from the SHROW and the Department shall have no responsibility for any costs of any utility accommodation, except as expressly provided otherwise in this section, or in a permit or agreement.
- (b) If a utility fails to fulfill any requirement of the Code or of the permit, the Department, after written notice to the utility, and an opportunity to cure, may elect in its discretion to perform the work by any other suitable means. In that event, the utility shall be liable to the Department for all costs reasonably and actually incurred by the Department for that performance. The utility shall pay that amount (plus interest at the statutory rate) to the Department not later than 30 calendar days after receipt of the Department's bill; and any such amounts not paid may be used to offset any fiscal obligation to the utility that the Department may incur.
- (c) The utility company shall pay for damages caused by the company's delay in the performance of utility relocation work or interference with the performance of transportation project work done by others. Such damages include, but are not limited to, payments made by the Department to any third party based on a claim that performance of the transportation project work was delayed or interfered with as a direct result of the utility company's failure to timely perform the utility relocation work. This is subject to the following additional provisions:

- (1) Damages resulting from delays in the performance of the utility relocation work or interference with the transportation project work that are caused by events beyond the utility company's ability to reasonably foresee or control (a force majeure) shall not be charged to the utility company.
 - (2) If damages are charged against the utility, the Department may withhold issuance of a permit until such damage charges are paid, or deduct damage charges from any outstanding accounts for relocation reimbursement agreements with that utility company.
 - (3) For utility relocations arranged through Design-Build Contracts, damage charges and the potential withholding of permits are subject to Part 14 of Title 43 C.R.S.
- (d) The Department will reimburse a utility for the costs of relocating its facility only where any of the following conditions exist:
- (1) The Utility has the right of occupancy in its existing location because it holds the fee, an easement, or other real property interest, the damaging or taking of which is compensable in eminent domain.
 - (2) The facilities are owned by a governmental subdivision of the State of Colorado or an abutting landowner, as provided in 43-1-225, C.R.S.
 - (3) The provisions of 43-1-1411 C.R.S. apply with respect to certain relocation costs associated with a Design-Build Contract.
 - (4) The facilities exist to serve a highway purpose, such as rest area services.
- (e) Except as otherwise provided in 43-1-1411(5), when in the acquisition of new SH ROW, the Department overtakes a utility's real property interest, the Department may;
- (1) Acquire a replacement property interest for the utility or reimburse the utility for the reasonable cost of acquiring its own replacement interest, the reasonableness of which will be determined by the Department, after consultation with the utility; or
 - (2) Where it is not necessary by virtue of the nature of the transportation project to relocate the utility's facilities, enter into a common use agreement or other type of agreement with the utility that allows the utility's property interest to exist within State Highway Right-of-Way; or

- (3) If the utility must relocate within the State Highway Right-of-Way and if a replacement interest is not acquired, the utility may be justly compensated to the extent allowable in accordance with Colorado eminent domain law and precedent for the value of its real property interest
- (4) If the relocation of a utility's facilities is necessitated by a transportation project and the said utility elects to relocate its facilities within the State Highway Right-of-Way, enter into a common use agreement or a utility permit with the utility that allows reimbursement for future relocations of the said utility's facilities provided that the utility vacates its property interest that exist within State Highway Right-of-Way.

SECTION 202 - UTILITY PERMITS TO THE STATE HIGHWAY**202.01 Requirement to Obtain a Permit**

- (a) A utility must obtain a permit from the Department prior to performing any utility accommodation work, including the initial installation, maintenance, or removal of facilities.
- (b) The utility must obtain a new (or revised) permit for any work which is not expressly described in the language of the scope of work of an existing permit. The Department may require, or allow upon request, an annually renewed maintenance permit, depending upon the type of utility, the planned types of maintenance activities, and traffic and roadway characteristics.

202.02 Application for a Utility Permit

- (a) An applicant must submit an application for a permit to the office of the Regional Transportation Director or designee of the region where the accommodation is requested. CDOT region offices are located in Aurora, Denver, Durango, Grand Junction, Greeley, and Pueblo. For permitting purposes the Durango region is further subdivided into Durango and Alamosa offices.
- (b) The application must be in writing on the Department's prescribed form – "Utility/Special Use Permit Application", which is available from the Department's regional permitting offices or the Department's website. The application must include a complete description of the purpose, nature and specific location of planned work, and the anticipated dates to start and complete that work. The application must include a scope of the proposed activities to be covered by a permit, including type and size of utility facility, proposed utility plans, traffic control plans, and methods used to perform the work. The application must describe that information in sufficient detail to enable the Department to determine exactly what work is proposed.
- (c) If the applicant is other than the owner of the utility facility, the application must include either written evidence of the applicant's authority to act as agent for the owner, or a notarized statement by the owner that it concurs in the application.
- (d) The applicant shall submit reasonably necessary additional items of information, if any, requested by the Department in conjunction with a permit application, including: (1) highway and utility plan and profile information; (2) utility facility design; (3) existing and/or proposed locations of other facilities within the affected area; and (4) evidence of adequate, current liability insurance coverage of the proposed work.

202.03 Action on the Application; Issuance of Permit

- (a) The Department may refuse to accept or consider an application if the application lacks necessary information or detail.
- (b) If the Department accepts an application it shall promptly evaluate and act on the application, in accordance with the Code. In exceptional circumstances, the Department will negotiate additional reasonable time as needed to completely review and act on an application.
- (c) If the Department denies the permit requested by the application (see section 202.06 (a)), it will immediately provide the applicant a copy of the application marked “Denied”, together with a written explanation of the grounds for the denial.
- (d) If the Department preliminarily approves the permit requested by the application, it will prepare and transmit to the applicant for signature a written permit containing standard provisions and applicable special provisions and other terms and conditions. The permit will be prepared using the Department’s prescribed form - “Utility Permit”. The applicant must sign the permit and return it to the Department not later than 60 days after transmittal date.
- (e) The Department may issue a “conditional” permit that is subject to further resolution of such matters as work schedule, construction methods or other permit requirements, before the affected work may proceed.
- (f) The effective date of the permit shall be the date the permit receives final approval, i.e., the date the Department signs the permit. A permit shall not be effective or valid until it is signed by the applicant and the Department, with the date of issuance properly affixed thereto.
- (g) If the applicant does not sign the permit, or does not agree to all the terms and conditions of the permit, or does not return the signed permit within that 60 day period, then the Department shall have no obligation to sign the permit or to take further action on the permit.

202.04 Utility Permits Requiring Third Party Approval.

- (a) The applicant must obtain the approval of a third party, and agree to terms and conditions (if any) imposed by that third party, before the Department will approve a permit in certain circumstances, including:
 - (1) The proposed accommodation is on federal lands and the highway right of way grant is for highway purposes only. In such cases, the applicant must obtain permission from, and comply with the requirements of, the federal

agency having jurisdiction over the underlying land, in accordance with 23 CFR 645.205(d).

- (2) The proposed accommodation is within a portion of highway right of way in which another person holds an overlapping easement or other real property interest. In such cases, the application must include written evidence that that person concurs in the application.
 - (3) The proposed accommodation is on the right of way of a federal aid highway and is either: not in conformance with applicable federal regulations or with the Code; or involves longitudinal use of the right of way by a private line (see also 302.05). In such cases, FHWA concurrence is required in accordance with 23 CFR 645.215(d).
 - (4) The proposed accommodation involves the joint use by the applicant's facilities of another owner's utility facilities; or involves the co-location of two or more utility facilities in a common trench or conduit.
- (b) Any necessary FHWA approval under (a)(3) above will be requested by the Department during the permit application review process. The applicant shall be solely responsible to request and obtain all other approvals required under (a)(1) and (a)(2) above.
 - (c) The applicant must address the need for any such third party approval in the application. The Department will advise the applicant of such needs that it is aware of, and will make the permit expressly subject to prior written approval of such third parties, or may require reasonable evidence of such approvals.
 - (d) If a permit is issued, it will contain, or incorporate by reference, all terms and conditions required by such third parties.
 - (e) Environmental clearances must be obtained, as described in section 301.07.

202.05 Variance Procedures

- (a) The applicant must submit a written request, as part of the permit application, if it seeks a variance from a requirement of the Code. The request shall describe the proposed variance, and the specific reasons for the variance.
- (b) In determining whether to grant a variance the Department will consider all relevant factors, including whether:
 - (1) a variance is reasonably necessary for the convenience, safety and welfare of the public.

- (2) there is exceptional or undue hardship on the applicant, or a physical impracticality.
- (3) a variance will not impair the highway or highway operations, maintenance, or safety, nor otherwise conflict with the purposes of the Code.
- (4) a variance would not be detrimental to the public health, welfare, or safety.

202.06 Denial, Suspension, Modification or Revocation of Permit

- (a) The Department may deny a permit if the requested accommodation does not comply with the Code or applicable law, or otherwise endangers the public health, safety, or welfare.
- (b) The Department may suspend, limit, modify, revoke, or refuse to renew or revise a previously issued permit if:
 - (1) the application contains any material misrepresentations, or false information, or its approval was otherwise obtained in bad faith or fraudulently;
 - (2) the permitted work is performed in violation of the terms or conditions of the permit, or of the requirements of the Code, or other applicable law;
 - (3) the permittee fails to satisfactorily perform in a timely way any obligation imposed by the permit, or the Code; or
 - (4) such action is necessary to protect the highway facility, or otherwise protect the public health, safety or welfare.

202.07 Appeals

- (a) A utility may request the Issuing Authority to reconsider, on an informal basis, any objections to or requested revisions of a section 202.06 permit action without prejudicing the right of the applicant/permittee to the formal review procedures contained in CRS § § 24-4-104 and 24-4-105. If so requested, the Department may informally reconsider its action and may revise the permit accordingly, or issue a new permit, or require an applicant to submit a new application for consideration.
- (b) A utility may also formally appeal a section 202.06 permit action. Such appeal and request for hearing shall comply with the following provisions:
 - (1) Should the utility object to the denial of a permit application by the Department or to any of the terms or conditions of a permit placed there by

the Department, the Utility has a right to appeal that decision by the Department. To appeal a decision, a request for an administrative hearing must be submitted to the Chief Engineer within 60 days of transmittal of notice of denial or transmittal of the permit for signature. A request for a hearing should be submitted to the Chief Engineer, Colorado Department of Transportation, 4201 E. Arkansas Avenue, Denver, CO 80222-3400, Attn: State Utility Engineer, Utility Permit Hearing Request. The request shall include the reasons for the appeal and may include changes, revisions, or conditions that would be acceptable to the utility.

- (2) An appeal of a decision by the Department under this regulation regarding a utility permit shall be conducted in accordance with C.R.S. § 24-4-105. Upon proper application by the applicant, a hearing shall be commenced within 90 calendar days of the receipt of the appeal, unless otherwise agreed upon. The Chief Engineer shall appoint a Board consisting of three people to preside over the hearing, at least one of which will have experience with utility issues within the right of way. A Board member may serve on a board more than once. The Chief Engineer shall select, from among the Board members, a chairperson who shall direct the proceedings, and shall assign a Department employee as a non-voting Board Secretary, who will accomplish the Board's administrative duties.
- (3) The board shall have authority and the hearing shall be run pursuant to CRS § 24-4-105. Each side shall have 30 minutes in which to present their case, beginning with the utility, and the utility shall have 15 minutes in which to rebut the Department's presentation. The board may opt to hear opening and closing statements, and may ask questions of either party. If requested, the board may, but is not required to, extend the allotted times. Each party may have an attorney present their case, solely at their own expense. Any attorney who is a witness may not act as counsel for the party calling the attorney as a witness.
- (4) The board shall tape record the proceedings or hold the hearing before a certified court reporter.
- (5) The utility shall have the burden of proof, by a preponderance of the evidence, relating to the Department's decision regarding the utility permit.
- (6) Within 10 days of the hearing the board shall make a recommendation to the Chief Engineer regarding the validity of the Department's action on the utility permit. The recommendation shall be in writing and contain a statement of findings and conclusions upon all the material issues of fact, law or discretion presented by the record and shall enter an appropriate order sanctioning or

denying relief. The recommendation shall not be binding on the Chief Engineer.

- (7) The Chief Engineer shall take the recommendation of the board under advisement and shall make a final decision on the utility permit within 30 days of receipt of the recommendation. The decision of the Chief Engineer shall be in writing and sent to all of the parties. The decision of the Chief Engineer shall be considered the final agency action of the Department pursuant to CRS § 24-4-105 and CRS § 24-4-106.

SECTION 203 - INSTALLATION, OPERATION, MAINTENANCE, AND ADJUSTMENT**203.01 Construction and Inspection**

- (a) The permittee must keep a copy of the utility permit, including approved plans, traffic control plan, insurance and other required attachments, at the accommodation work site at all times. All such documents, and the utility accommodation work, shall be subject to review/inspection at all reasonable times by the Department.
- (b) If a conditional permit is issued (see section 202.03(e)), the permittee shall not proceed with the affected work until it receives the approval of the Department on all unresolved matters.
- (c) An approved permit will specify the planned completion date for the accommodation work. The permittee shall not perform the work after that date without the prior written approval of a time extension by the Department. A permit shall expire automatically if the construction work approved therein has not commenced within 90 days after the specified completion date or approved extension.
- (d) The permittee shall provide notice to the Department at the following times:
 - (1) Not less than two working days prior to commencing work, or resuming operations which have been suspended for five or more consecutive working days.
 - (2) Promptly upon completion of the work.
 - (3) When otherwise specified in the permit or as ordered by the Department inspector.
- (e) The Department may designate a representative who may serve as inspector during permit operations. If so designated, the inspector may assist with coordinating the work and may inspect the work during progress and upon completion to ensure that all terms and conditions of the permit are met.
- (f) The Department will determine the extent of inspection services necessary for a given installation.
- (g) If the initial performance of permitted work was unacceptable, as determined by the Department, the permittee shall perform any reconstruction or improvement of that work as ordered by the Department, in a timely manner and prior to any further construction.

- (h) The permittee shall attend a final inspection if so directed by the Department.
- (i) The permittee shall comply with all other requirements, if any, related to the performance of planned or ongoing highway construction work in the same area of SH ROW, in order to coordinate the performance of any such work and minimize public inconvenience and cost.
- (j) If utility operations encounter areas of historical or ecological significance which were previously unknown, the permittee shall immediately avoid any further disturbance thereof, and shall promptly notify and follow any subsequent instructions of the Department, and/or other jurisdictional agency, as further described in section 301.07.
- (k) If utility operations cause or observe hazardous materials spills or illicit discharges, the permittee shall immediately contact the CDOT Water Quality Program Manager and the Colorado Department of Public Health and Environment – Emergency Management Program (CDPHE-EMP). Notification shall also be given as soon as possible to the CDOT Region Permitting Office. If the utility construction causes an illicit discharge that may potentially enter into the CDOT Municipal Separate Storm Sewer System (MS4), operations must cease until the discharge has been properly contained and the appropriate corrective measures have been implemented under the direction of Colorado Department of Public Health and Environment – Water Quality Control Division (CDPHE-WQCD). An illicit discharge is any discharge to a municipal separate storm sewer that is not composed entirely of stormwater, except the following: discharges specifically authorized by a CDPS permit and allowable non-stormwater discharges. See section 301.07 for contact information.
- (l) If utility operations are not being carried out in compliance with the terms and conditions of a permit that has been issued for the work, the Department may order the utility to perform whatever corrective measures are necessary to attain compliance with the permit. If there is an immediate danger to the public's health, safety or welfare, the Department may order the utility to cease all operations, and if necessary, to remove all equipment and facilities from the SHROW.
- (m) If no permit has been issued for work being performed by a utility in the SHROW, the Department will order the utility to immediately apply for a permit. If deemed by the Department necessary to prevent any damage to the highway or endangerment of the public's health safety and welfare, the Department may order the utility to cease all operations until a permit is obtained, and if necessary, to remove all equipment and facilities from the SHROW. The permit that is eventually issued for the work may include whatever terms and conditions may be necessary to correct any improperly performed work and attain compliance with the Code.

203.02 Plan Revisions or Altered Work

- (a) The permittee shall not revise the plans or methods of performing the work, as described in the approved permit, without the prior written approval of the Department.
- (b) The permittee shall promptly notify the Department of any desired changes or if site conditions are encountered which require changes.
- (c) The Department may approve and order minor changes in the plans/methods that are within the scope of the existing permit.
- (d) The permittee must apply for, and receive approval of, a new or revised permit before it performs any major change(s) in the work.

203.03 Operation and Maintenance

- (a) The permittee shall operate and maintain its utility facilities in SH ROW in accordance with the permit (the initially issued permit as well as any subsequent individual or annual maintenance permit), and in a manner that does not impair traffic safety or unreasonably interfere with the operation and maintenance of the highway.
- (b) A permit will describe the scope, and conditions thereto, of maintenance activities that may be performed without prior notice to and approval by the Department. The permittee shall provide written notice to, and if necessary obtain a new permit from, the Department before the permittee performs any maintenance not so described.
- (c) The Department shall be given proper advance notice, as specified in the permit, whenever maintenance work will affect the movement or safety of traffic.
- (d) To determine if the permittee must obtain a new permit for maintenance activities, the Department will consider all relevant factors, including:
 - (1) the extent and duration of the work;
 - (2) traffic control requirements; and
 - (3) any required construction or excavation within SH ROW.
- (e) Notwithstanding (b) of this section, and unless any area within freeway ROW is being accessed (see section 302.02(i) of this Code), the permittee need not provide written notice before performing the following activities:
 - (1) Maintenance work which is confined to areas beyond the traveled way and contiguous shoulders, which does not require new excavation or

construction, and which does not require the active control or rerouting of traffic.

- (2) Temporary lane closures where utility facilities must be serviced from within the traveled way, provided that the traffic control plan in the original permit addresses such closures.
- (f) Emergency repairs that do not affect the movement or safety of traffic may be performed without prior notice to the Department. But, the permittee shall notify the Department immediately after the repairs are completed, and shall comply with the terms of the initial permit for the facility, as well as any subsequent permit issued to cover site restoration activities. If emergency repairs will affect the movement or safety of traffic, a traffic control plan must be developed and the permittee shall, before starting such repairs, notify the Department and the appropriate law enforcement agency to coordinate traffic safety measures.
- (g) If the utility facility will unreasonably interfere with or impair certain highway construction or maintenance operations, the permittee shall, upon reasonable notice from the Department, shut off utility lines, remove combustible or hazardous materials from SH ROW, provide necessary temporary safeguards, or take other action appropriate in the circumstances.
- (h) The permittee shall provide written notice to the Department and obtain approval of any change in the class of the utility's transmittant, or of any increase in the maximum design pressure specified in the permit, before implementing such change or increase.
- (i) The permittee shall contact the CDOT Water Quality Program Manager and the CDPHE-Emergency Management Program immediately if, during operation and maintenance procedures, an illicit discharge or improper connection to the MS4 is observed. See Section 301.07 for further information. The CDOT Region Permitting Office shall also be contacted as soon as possible.

203.04 Safety Corrective Measures

- (a) The permittee shall promptly perform such safety corrective measures to the utility facility that the Department, after consultation with the permittee, has determined are necessary to protect the public safety and has notified the permittee in writing thereof.
- (b) The permittee's performance of the safety corrective measures shall conform with the standards of the Code.

- (c) If the public health, safety, and welfare imperatively require that certain safety corrective measures be performed immediately on utility facilities, and if the permittee is unable or unwilling to take such action, the Department may immediately perform those corrective measures, pending a determination of responsibility and an allocation of cost for that performance.

203.05 Utility Relocations Initiated by the Department

- (a) The utility shall relocate its existing facilities if the Department provides reasonable notice to the utility in writing that the relocation is necessary due to a transportation project or other transportation purpose. The notice shall include all available and relevant information including the Department's planned timeframe within which the utility relocation work must be completed. If the relocation of the company's facilities is necessitated by a transportation project, the Department shall provide written notice to the utility as soon as practicable.
- (b) If the utility is required to relocate existing utility facilities it may suggest, and assist the Department with developing schedules and alternatives concerning the new location of the facilities. In the development of a transportation project, the Department will consider the impact of highway changes on existing utilities.
- (c) The utility shall relocate its facilities in compliance with all terms of a permit issued, and agreement entered into, if applicable, for that purpose. Such permit will be prepared using the Department's prescribed form "Utility Relocation Permit."
- (d) The utility shall perform the relocation at or within a time convenient to, and in proper coordination with, the project or transportation-related activity, to minimize public inconvenience and cost, as directed by the Department in the permit authorizing the relocation.
- (f) Every permit shall be contingent upon and subject to the right of the Department to require the permitted utility, upon reasonable written notice thereof, to relocate its facilities if necessary for transportation purposes.
- (g) Relocations associated with Design-Build Contracts shall conform to the provisions of Part 14 of Article 1, Title 43 C.R.S.
- (h) Utility relocation cost responsibilities are described in Section 201.02.

203.06 Illegal or Nonconforming Installations or Activities

- (a) The utility shall after written notice thereof from the Department:

- (1) Promptly remove any utility facility which was constructed, installed, revised, or relocated without a utility permit or in violation of the terms of a permit, after the effective date of the Code.
 - (2) Immediately halt the performance of all utility activities that are not authorized by a permit.
 - (3) Promptly perform actions that are necessary to attain compliance with the terms and conditions of a permit that was issued after the effective date of the Code.
 - (4) Immediately suspend the permitted operation/maintenance of the facility, when it is determined that the permittee has committed a deliberate and willful violation of the permit or that the public safety, health, or welfare imperatively require emergency action.
- (b) Remedial actions, concerning utility accommodations that existed prior to the effective date of the Code, are subject to the provisions of section 103(j).

203.07 Abandonment, Retirement, Change in Ownership

- (a) The utility shall notify the Department in writing of the planned inactivation of its facility or any portion thereof, including plans for removing the facility, or a request for being allowed to retire or abandon the facility in-place.
- (b) The Department may allow a retired facility to remain in place, and the facility shall remain the utility's sole responsibility, subject to all provisions of the Code, and all of the terms and conditions of the permit issued for that facility, including maintenance and relocation requirements. The Department will notify the utility in writing if it determines that the facilities may be retired in place, along with any special conditions that may apply.
- (c) The utility shall promptly remove all abandoned facilities from the SH ROW and promptly restore the SH ROW to pre-existing or other conditions prescribed by the Department unless the Department in writing expressly allows the facility to remain in place. Written notice from the Department, allowing an abandoned facility to remain in place, may include special conditions.
- (d) In determining whether to allow abandoned or retired facilities to remain in place rather than require the permittee to remove them, the Department will consider such factors as: present or potential congestion of utility installations; highway construction or maintenance requirements; cost and difficulty of removal; whether or not the facilities contain any hazardous materials, such as asbestos; the potential for the facilities to have to be removed by the Department itself at some future

- date; and traffic and safety requirements. If the Department determines that the facilities must be removed, they will notify the utility in writing of such determination.
- (e) If utility facilities are retired or abandoned in place, the utility shall, if directed by the Department:
- 1) cap, plug or fill lines,
 - 2) furnish suitable location records for any such buried facilities,
 - 3) maintain its own records of such facilities and respond to locate notices/requests from the UNCC and/or excavators, In providing such locates, the utility will indicate to the requesting entity whether or not the subject facilities are retired or abandoned.
 - 4) perform any other actions as deemed necessary by the Department to protect the transportation facility and/or the traveling public.
- (f) If the ownership of utility facilities is transferred, both the original permittee and the new owner shall notify the Department in writing prior to the change in ownership, and such notice shall state the planned date of change in ownership. The notice from the new owner shall include a written statement accepting all terms and conditions of the existing permit, effective upon the planned date of the change in ownership.
- (g) Utility facilities containing asbestos may not be abandoned in-place. Ordinarily, such facilities must be removed from the SHROW when take out of service. On a case-by-case basis, the Department may allow such facilities to be retired in-place, with the owner retaining full legal ownership and responsibility for the facilities.