

**From:** Wright, Robert L (DOT)  
**Sent:** Thursday, October 23, 2008 8:36 AM  
**To:** Bennett, John F (DOT); Beck, Albert M L (DOT); Thorsteinson, Fredrik J (DOT)  
**Subject:** FW: Utility Accommodation Policy Interpretation

Forwarding you Ken's response to an AASHTO inquiry re utilities.

Regards,

Robert Wright  
State Right of Way Chief  
DOT&PF Headquarters  
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**From:** Morton, Kenneth M (DOT)  
**Sent:** Tuesday, October 21, 2008 8:53 AM  
**To:** RDemuth@indot.IN.gov  
**Cc:** Wright, Robert L (DOT)  
**Subject:** RE: Utility Accommodation Policy Interpretation

Bob:

We are (hopefully) near the end of the process of updating our utility accommodation regulations.

The current pertinent regulation is:

**17 AAC 15.131. Utility accommodation on controlled-access highways**

- (a) No utility facility may be installed longitudinally within the controlled-access limits of a highway unless the utility demonstrates to the satisfaction of the department that there is no feasible alternative, and that the proposed utility facility will not adversely affect the design, construction, maintenance, safety, or operation of the highway.
- (b) Access for maintenance of a utility facility located within controlled-access limits of a highway or from the entrance or exit ramp of a highway is prohibited.
- (c) A facility located within the controlled-access limits of a highway as of May 23, 1982 must be relocated or other provisions made so that it can be maintained without using access from the highway or from entrance or exit ramps of the highway.

As mentioned above, Alaska DOT is in the process of updating the regulations that address utility accommodation. The controlled access section was proposed for modification to more closely conform to the *AASHTO A Policy on the Accommodation of Utilities Within Freeway Right-of-Way, October 2005* publication – which does open the door a bit more. **Note that the following has been included in two rounds of public comments – but the regulations update process has not yet been completed):**

**17 AAC 15.131. Utility accommodation on controlled-access highways.** (a) A [NO] utility facility may **not** be installed [LONGITUDINALLY] within the controlled-access limits of a highway unless the utility demonstrates to the satisfaction of the department that

**(1) a** [THERE IS NO] feasible alternative **does not exist; and**

**(2)** [, AND THAT] the proposed utility facility will not adversely affect the design, construction, maintenance, safety, or operation of the highway.

(b) Access for maintenance of a utility facility located within controlled-access limits of a highway or from the entrance or exit ramp of a highway is prohibited, **except if**

**(1) alternate locations and means of access are unavailable or impractical due to terrain and environmental constraints; and**

**(2) that use will not adversely affect safety and traffic operation, or damage the highway, a highway structure, or a department installation.**

(c) **Where an existing highway will be or has been converted to a** [A FACILITY LOCATED WITHIN THE] controlled-access [LIMITS OF A] highway, **the department may**

**(1) relocate any existing facility** [AS OF MAY 23, 1982 MUST BE RELOCATED OR OTHER PROVISIONS MADE SO] that [IT] can be maintained **only from the proposed controlled access of a highway or its entrance or exit ramps; or**

**(2) make other provisions to maintain any existing facility** without requiring access from the highway or **its** [FROM] entrance or exit ramps [OF THE HIGHWAY.]; **or**

**(3) allow access for the reasons set forth in sections (b)(1) or (b)(2).** (Eff. 5/23/82, Register 82; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

<b>Authority:</b>	AS 19.05.020	AS 19.25.010	AS 19.40.065
	AS 19.05.040	AS 19.25.200	<b><u>AS 44.42.020</u></b>
	AS 19.20.030	AS 19.30.051	<b><u>AS 44.42.030</u></b>
	AS 19.20.070	AS 19.30.121	

In answer to your specific questions:

1 – Do you accommodate fiber in LARW?

Yes.

- Where the controlled-access line is offset from the right-of-way line, we permit utility facilities longitudinally within this strip.
- Where the controlled-access line is coincident with the right-of-way line, we have permitted the installation of fiber optic utilities longitudinally within the controlled access area when they have made the case that there was no feasible alternative.
- In both instances the permits have stipulated that:
  - The Utility could not access the area for construction or maintenance activities from the highway side.
  - The Utility could leave no maintenance access points (junction boxes / fiber vaults) within the controlled access area.

2 – Do you accommodate other utilities?

Yes. We have also permitted water and natural gas transmission lines longitudinally within the controlled access areas of highway rights-of-way. We do not do it very often (the utility must still make the case that there are no feasible alternatives) and we provide similar stipulations.

If you have any questions, please contact me as provided below.

Regards,

Ken Morton, P.E.  
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Central Region  
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**From:** Wright, Robert L (DOT)  
**Sent:** Monday, October 20, 2008 7:55 PM  
**To:** Morton, Kenneth M (DOT); Morton, Kenneth M (DOT)  
**Subject:** FW: Utility Accommodation Policy Interpretation

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**From:** Demuth, Robert [mailto:RDemuth@indot.IN.gov]  
**Sent:** Mon 10/20/2008 11:49 AM  
**To:** Alabama; Wright, Robert L (DOT); Arizona; Arkansas; California; Colorado; Connecticut; Delaware; District of Columbia; Florida; Georgia; Hawaii; Idaho; Illinois; Iowa; Kansas; Kentucky; Louisiana; Maine; Maryland; Massachusetts; Michigan; Minnesota; Mississippi; Missouri; Montana; Nebraska; Nevada; New Hampshire; New Jersey; New Mexico; New York; North Carolina; North Dakota; Ohio; Oklahoma; Oregon; Pennsylvania; Puerto Rico; Rhode Island; South Carolina; South Dakota; Tennessee; Texas; Utah; Vermont; Virginia; Washington; West Virginia; Wisconsin; Wyoming  
**Cc:** Belter, Dennis  
**Subject:** Utility Accommodation Policy Interpretation

Greetings from Indiana!

We have an interesting situation out/back/up/down here with respect to a utility's request to utilize state-controlled right-of-way as an easement.

*If you are NOT the correct office for this issue, would you please forward to the correct individual?*

We have several options available, but thought it rather wise to see how other states handle similar Permit requests. To that end, I have two questions (and a dependent request).

1 – Do you accommodate fiber in LARW?

2 – Do you accommodate other utilities?

**If the answer to either of these questions is “yes”, would you please send us a copy of your Utility Accommodation Policy?**

We have a pretty sensitive permit application hanging on this issue, so I would appreciate a quick turnaround where possible.

Thanks in advance for your participation.

Bob D.

**ROBERT L. "Bob" DEMUTH**

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