

UTILITIES WITHIN THE HIGHWAY RIGHT OF WAY

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Federal Highway Administration (FHWA) Policy

- Utility facilities are considered an allowed use
- Fees charged for utility use is at the state's discretion
- Any revenues must be utilized for Title 23 (Code of Federal Regulations) activities
- States must have a FHWA approved utility accommodation policy
- Utility relocation costs are eligible for Federal-aid participation if state law allows

State of Vermont's Policy

- Vermont has a FHWA approved Utility Accommodation Plan (Policy)
- Authority for use of right of way is prescribed in Title 19 VSA Section 1111
- Title 19 VSA Section 26a discusses rent for use of State owned property
- Title 19 VSA Chapter 16 discusses utility relocations in conjunction with highway projects.

General Utility Accommodation

- Utilities are allowed within the highway right of way, with a few exceptions, at no cost
- Utilities are granted an annual general maintenance 1111 permit and additional permits for individual utility projects
- Utilities within the right of way must relocate at their own expense
- Utilities outside of the right of way, within their own easement can be reimbursed
- Utilities outside of the right of way, NOT with an easement must relocate at their own expense
- Utilities impacted by highway project are coordinated by Utility Relocation Unit consisting of four staff

Risks and Concerns

- Additional time and cost to acquiring land/rights to accommodate utilities
- Limited utility company workforce to complete relocations
- Timeliness of completing relocations
- Delays to projects going out to bid
- Delays to projects already under construction

Current Relocation Order Process:

- The Agency of Transportation (VTrans) issues relocation orders to all utilities affected by proposed construction and are required to relocate in advance of the project beginning construction.
 1. VTrans works with utility owners to design a relocation that suits the utilities needs as well as accommodates the needs of the project.
 2. VTrans generates a relocation schedule which is sent to utility owners for comment/approval.
 3. Upon approval/acknowledgement VTrans issues a Title 19 Section 1111 permit and a Utility Relocation order, this relocation order incorporates the dates that were previously sent to the utility owners for consideration.
 4. Title 19 Section 1111(a)(3) allows any contractor claims as a result of utilities relocating in a timely manner to be passed on to the utility company. (revised 2017)
 5. In the event a utility fails to move in a timely manner, VTrans has the authority per Title 30 Section 2504 to remove/relocate those utilities and recover the costs associated with this work.