

Such records shall comply with the requirements of N.J.A.C. 13:35-6.5, and all other applicable State and Federal statutes, rules, and regulations for recordkeeping, confidentiality, and disclosure of a patient's medical record.

**13:35-6B.8 Prevention of fraud and abuse**

(a) In order to establish that a licensee has made a good faith effort to prevent fraud and abuse when providing services through telemedicine or telehealth, a licensee must establish written protocols that address:

1. Authentication and authorization of users;
2. Authentication of the patient during the initial intake pursuant to N.J.A.C. 13:35-6B.4(a)1;
3. Authentication of the origin of information;
4. The prevention of unauthorized access to the system or information;
5. System security, including the integrity of information that is collected, program integrity, and system integrity;
6. Maintenance of documentation about system and information usage;
7. Information storage, maintenance, and transmission; and
8. Synchronization and verification of patient profile data.

**13:35-6B.9 Privacy and notice to patients**

(a) Licensees who communicate with patients by electronic communications, other than telephone or facsimile, shall establish written privacy practices that are consistent with Federal standards under 45 CFR 160 and 164, which are incorporated herein by reference, as amended and supplemented, relating to privacy of individually identifiable health information.

(b) Written privacy practices required by (a) above shall include privacy and security measures that assure confidentiality and integrity of patient-identifiable information. Transmissions, including patient email, prescriptions, and laboratory results must be password protected, encrypted electronic prescriptions, or protected through substantially similar authentication techniques.

(c) A licensee who becomes aware of a breach in confidentiality of patient information, as defined in 45 CFR 164.402, shall comply with the reporting requirements of 45 CFR 164.

(d) Licensees, or their authorized representatives, shall provide a patient, prior to evaluation or treatment, with copies of written privacy practices and shall obtain the patient's written acknowledgement of receipt of the notice.

(e) Licensees who provide services through telemedicine or telehealth, or their authorized representatives, shall, prior to providing services, give patients notice regarding telemedicine and telehealth, including the risks and benefits of being treated through telemedicine or telehealth and how to receive follow-up care or assistance in the event of an adverse reaction to the treatment or in the event of an inability to communicate as a result of a technological or equipment failure. A licensee shall obtain a signed and dated statement indicating that the patient received this notice.

(f) When telemedicine or telehealth is unable to provide all pertinent clinical information that a licensee exercising ordinary skill and care would deem reasonably necessary to provide care to a patient, the licensee shall inform the patient of this prior to the conclusion of the provision of care through telemedicine or telehealth and shall advise the patient regarding the need for the patient to obtain an additional in-person medical evaluation, reasonably able to meet the patient's needs.

## TRANSPORTATION

### (a)

#### DIVISION OF RIGHT OF WAY AND ACCESS MANAGEMENT

#### State Highway Access Management Code

#### Proposed Amendments: N.J.A.C. 16:47-2.1 and 5.2

#### Proposed Repeal and New Rule: N.J.A.C. 16:47 Appendix E, Figure E-2

Authorized By: Diane Gutierrez-Scaccetti, Commissioner, Department of Transportation.

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 27:7-44.1, and 27:7-89 et seq., specifically 27:7-91.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2019-047.

Submit written comments by July 5, 2019, to:

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Submit electronically at [njdotRules@dot.state.nj.us](mailto:njdotRules@dot.state.nj.us).

This rulemaking may be viewed or downloaded from the Department's website at <http://www.state.nj.us/transportation/about/rules/proposals.shtm>.

The agency proposal follows:

#### Summary

N.J.A.C. 16:47 governs the management of vehicular traffic to and from State highways and minimizes its interference with through traffic by utilizing an access classification system that regulates the construction and operation of access points along these highways. Proposed amendments are necessary to clarify definitions, delete unnecessary language relating to trip limitations for nonconforming lots, and to revise a figure found in the chapter Appendix E.

The proposed amendments are as follows:

At N.J.A.C. 16:47-2.1, the definition of "adjustment of driveway" is proposed for amendment to include the phrase "the curblin opening of," regarding changing the width of a driveway. The definition of "modification of driveway" is proposed for amendment to include the phrase "the curblin opening," regarding changing the width of a driveway. The current definitions are not clear and the amendments are proposed to specify the area of the driveway from which the measurement is taken.

N.J.A.C. 16:47-5.2(b)4 is proposed for amendment to correct problems caused by the current language relating to trip limitation increases for lots with shared driveways. For conformance purposes, lots with a shared driveway are considered to be one lot and, currently, these lots do not receive multiple increases. The provision found at N.J.A.C. 16:47-5.2(b)4i should have been deleted when the rule was repealed and replaced in 2018. With this notice of proposal, that oversight is corrected and the provision is proposed for deletion.

N.J.A.C. 16:47 Appendix E, Figure E-1, provides ranges of minimum and maximum dimensions for driveway features and includes language establishing that steepness cannot be more than a four percent grade within 25 feet of the curblin. Figure E-1 provides the recommended geometric design for driveways and Figure E-2 is intended to show details. The Department of Transportation (Department) determined that the information in the current Figure E-2 is not clear and has caused confusion. Figure E-2 is proposed for repeal and replacement to clarify the dimensions of driveway grades.

Since the Department is providing a 60-day comment period for this notice of proposal, the notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

**Social Impact**

The State highway system provides a network of principal arterial routes that allows movement of people and goods in the major travel corridors of the State. Regulation and control of access points is necessary to provide efficient and safe operation, and to maintain optimum use of highway investments. The proposed amendments, new rule, and repeal clarify definitions, delete unnecessary language relating to trip limitations for nonconforming lots, and revise a figure found in the chapter Appendix E. The rules continue to enable the State to manage and effectively maintain each State highway, protect the valuable capital investment the public has made in the highway system, and preserve its functional integrity and public purpose. The Access Code balances the public’s desire for mobility with property owners’ rights to reasonable access to the general system of streets and highways.

**Economic Impact**

The proposed amendments, new rule, and repeal will continue to have a beneficial economic impact on the public, as they allow the safe and efficient movement of people and goods on the State highway system. The rules aid in minimizing traffic congestion, delays, and fuel consumption.

**Federal Standards Statement**

A Federal standards analysis pursuant to Executive Order No. 27 (1994) and P.L. 1995, c. 65, is not required because the proposed amendments, new rule, and repeal come within the authority of State statute only and are not subject to Federal requirements or standards.

**Jobs Impact**

The proposed amendments, new rule, and repeal are not anticipated to result in the loss or generation of jobs in New Jersey; however, they are anticipated to continue to support the economic viability of businesses and industry in the State. The Access Code seeks to protect the public’s capital investment in the highway system. That highway system allows customers to reach New Jersey’s businesses and facilitates industry’s movement of goods in an efficient and cost-effective manner. These, in turn, support New Jersey’s economy and potentially support job growth in the State.

**Agriculture Industry Impact**

The proposed amendments, new rule, and repeal will have no impact on the agriculture industry in New Jersey. This chapter is not intended to regulate farming, crop, or animal production.

**Regulatory Flexibility Statement**

The proposed amendments, new rule, and repeal clarify definitions, delete unnecessary language relating to trip limitations for nonconforming lots, and revise a figure found in N.J.A.C. 16:47 Appendix E. Because the proposed amendments do not impose any reporting, recordkeeping, or compliance requirements on businesses of any size, the Department has made no provision for lesser or differing standards for small businesses.

**Housing Affordability Impact Analysis**

This chapter governs the management of vehicular traffic to and from State highways and minimizes its interference with through traffic by utilizing an access classification system, which regulates the construction and operation of access points along these highways. The existing rules had no impact on the affordability of housing in New Jersey and the Department believes that it is extremely unlikely that the proposed amendments, new rule, and repeal, as they refer to definitions, delete unnecessary language relating to trip limitations for nonconforming lots, and revise a figure found in the chapter Appendix E, will evoke a change in the average costs associated with housing in New Jersey.

**Smart Growth Development Impact Analysis**

This chapter governs the management of vehicular traffic to and from State highways and minimizes its interference with through traffic by utilizing an access classification system, which regulates the construction and operation of access points along these highways. The existing rules had no impact on smart growth development in New Jersey and the Department believes that it is extremely unlikely that the proposed amendments, new rule, and repeal, as they refer to definitions, delete unnecessary language relating to trip limitations for nonconforming lots, and revise a figure found in the chapter Appendix E, will evoke a change in housing production within Planning Areas 1 or 2, or within designated

centers, under the State Development and Redevelopment Plan in New Jersey.

**Racial and Ethnic Community Criminal Justice and Public Safety Impact**

This chapter governs the management of vehicular traffic to and from State highways and minimizes its interference with through traffic by utilizing an access classification system, which regulates the construction and operation of access points along these highways. The existing rules had no impact on racial and ethnic community criminal justice and public safety in New Jersey and the Department believes that it is extremely unlikely that the proposed amendments, new rule, and repeal, as they refer to definitions, delete unnecessary language relating to trip limitations for nonconforming lots, and revise a figure found in Appendix E, will have any impact on pretrial detention, sentencing, probation, or parole policies concerning adults or juveniles in the State. Therefore, no further analysis is required.

**Full text** of the rule proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 16:47 Appendix E, Figure E-2.

**Full text** of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 2. DEFINITIONS

16:47-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires.

...  
 “Adjustment of driveway” means changing the width of **the curbline opening** of a driveway by five feet or less, changing the location of a driveway by 10 feet or less, moving a driveway away from the centerline of the State highway (such as when the State highway is widened), or changing the elevation or profile of a driveway, in conjunction with a State highway project advanced by the Department or others.

...  
 “Modification of driveway” means changes to driveways in conjunction with the implementation of a State highway improvement advanced by the Department or others, with Department approval, which changes the number of driveways, the width of **the curbline opening** of a driveway by more than five feet, or the location of a driveway by more than 10 feet. It includes replacing all ingress or all egress between a State highway and a lot or site with ingress or egress via a private easement on a different lot or site; or elimination of ingress, egress, or both between one State highway and a lot or site, while still providing ingress, egress, or both between a different State highway and the lot or site. Modification of driveway does not refer to changes made by a lot or site owner to his or her own driveway.

SUBCHAPTER 5. CONFORMANCE AND MAXIMUM TRIP LIMITATIONS FOR NONCONFORMING LOTS

16:47-5.2 Trip limitations for nonconforming lots or sites

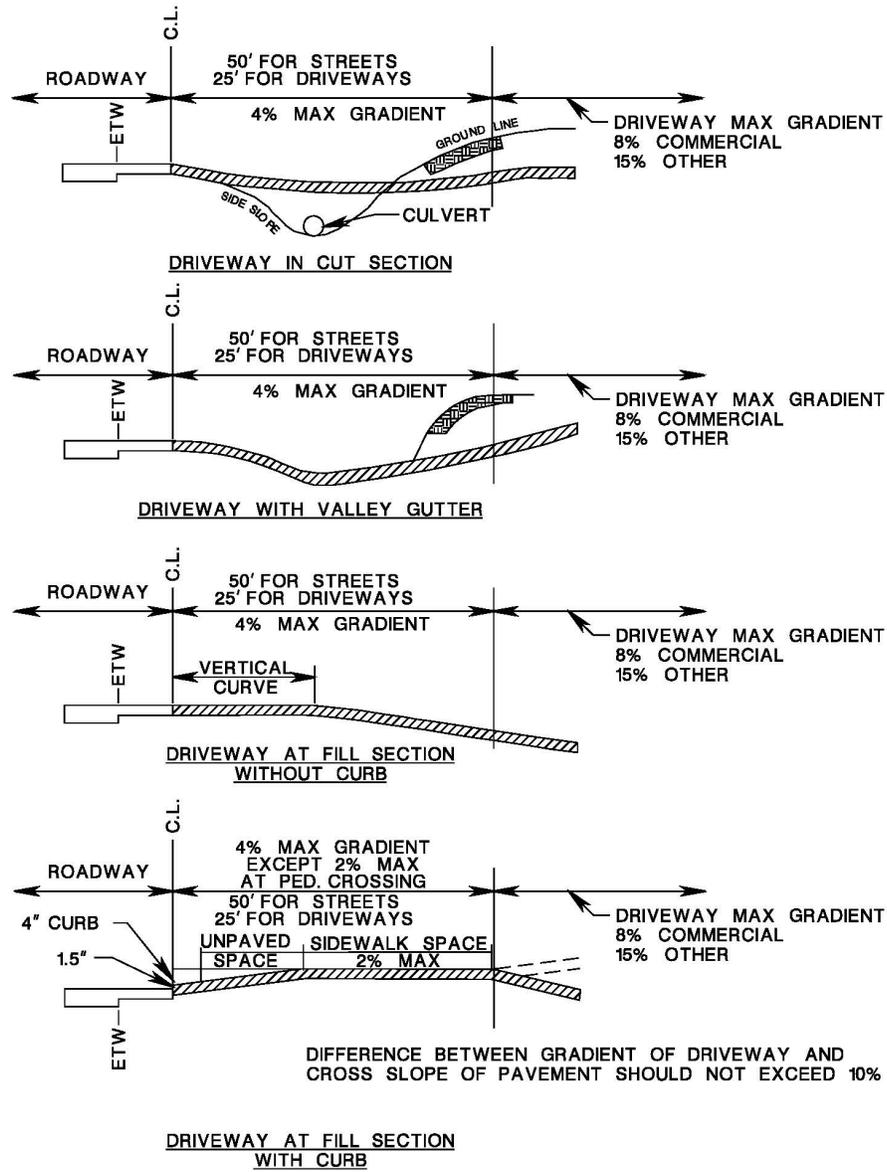
- (a) (No change.)
- (b) Maximum trip limitations shall be determined as follows:
  - 1.-3. (No change.)

4. The maximum peak hour trips (V) will be increased by 15 percent (V = 1.15) if a lot or site has [either of the] features in (b)4i [or ii] below. [For a lot or site having both of these features, there is a maximum increase of V<sub>max</sub> = 1.3V. No increase pursuant to (b)4i below shall apply to nonconforming lots created under N.J.A.C. 16:47-6.2(a).] No increase in the maximum trip limitations shall be given to any lot created by the subdivision of a nonconforming lot.

[i. A shared driveway. V will not be increased for a lot or site that has more than one driveway between a State highway and the lot or site. Motorists must be able to drive directly between all of the lots; or]

- [ii.] i. (No change in text.)

APPENDIX E



ETW = EDGE OF TRAVEL WAY  
C.L. = CURBLINE

DRIVEWAY PROFILE CONTROLS  
(NOT TO SCALE)

FIGURE E-2