

DATE: July 5, 2012

SUBJECT: Policy Update on the Review of Highway Occupancy Permit (HOP) Applications Proposing a Utility Facility within Limited Access Highway Right-of-Way

TO: District Executives

FROM: R. Scott Christie, P.E. *for Michael Gillespie /s/*
Deputy Secretary for Highway Administration

The use of District and Central Office Utility Relocation Units for the review of HOP applications proposing occupancy of a utility facility in limited access highway right-of-way (ROW) is being modified to give the District Permit Unit the authority to review and approve more of these applications themselves. This Strike-off Letter (SOL) is time decreasing, as the modifications to Department policy should reduce the time for most Department reviews of the aforementioned application type. The updated policy will also reduce the involvement of the Utility Relocation Units by eliminating the requirement for the units to review all applications proposing a utility facility in limited access ROW.

The new policy states that the District Permit Unit shall now review the affected applications for completeness and compliance with Regulation 459 and Design Manual, Part 5. A checklist for reviewing applications that request to occupy limited access ROW has been created and placed on the shared drive to aid the Permit Unit in their new role (<P:\permits shared\HOP\Checklists\General Checklist for Request to Occupy Limited Access Right-of-Way.doc>).

Prior FHWA concurrence is required for proposed longitudinal installations of private lines or proposed installations which are not in accordance with Design Manual, Part 5.

This policy is effective immediately and includes any HOP not yet issued by the Department. The attached policy will be incorporated into the HOP Manual (Publication 170) and HOP Guidelines (Publication 282) with the next revisions to these manuals.

The following replacement sheets for the policy updates are to be used to update existing publications. Please remove and destroy replaced sheets:

- Pub. 170, HOP Manual, pg 10, 63 and 64.
- Pub. 282, HOP Guidelines, District Staff, pg 10.
- Pub. 16M, DM-5 Utility Relocation, pp 1-5 and 1-6.

Also attached are the following:

- Revised form M-930 U – Highway Occupancy Permit Application Clearance Utilities to be consistent with the new policy.
- General Checklist for Request to Occupy Limited Access ROW.

Should you have any questions, please contact Glenn Rowe, P.E., Chief, Traffic Engineering and Permits Section, at 717-787-3620.

Attachments

4700/MJD/hmq

CC: Don Horne, P.E., Transportation Engineer, FHWA
Assistant District Executives – Maintenance
Assistant District Executives – Construction
Assistant District Executives – Design
District Permit Managers
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William Cressler, Acting Chief Counsel, Office of Chief Counsel
Thomas Haist, Assistant Counsel in Charge, Office of Chief Counsel
Michael Gillespie, P.E., Acting Director, BOPD
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Larry Ditty, Utility Relocation Administrator 2, BOPD
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Stephen Grimme, P.E., Chief, Highway Safety and Traffic Operations Division, BOMO
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Michael Dzurko, Manager, HOP Program, BOMO

District Staff

Other District Office staff members involved in the review of applications involving extensive or critical operations (via appropriate M-930 Transmittal) include:

1. Traffic Unit -- provides technical assistance in reviewing applications that:
 - a. Involve a local road, a Medium Volume driveway or a High Volume driveway (via M-930 D). This would include review of a Traffic Impact Study.
 - b. Are requested by the Permit Manager, to review an operational or safety concern.
 - c. Include a detour or complex Work Zone Traffic Control Plans.
2. Design Unit -- provides technical assistance in reviewing applications involving:
 - a. Utility facility in limited access highway right-of-way (via M-930 U).
 - b. Nonutility work in limited access highway right-of-way (via M-930 N).
 - c. Construction of sidewalk or curb by municipality.
 - d. Independent roadway improvement (e.g., auxiliary lane) (via M-930 N).
 - e. Installation of highway lighting in highway right-of-way (via M-930 N).
3. Utility Relocation Unit -- assists in reviewing applications involving:
 - a. The administration of Design Manual, Part 5, which includes the issuance of a Highway Occupancy Permit -- Utility Relocation (Form D-4181-P), if a utility facility relocation or adjustment is required within the limits of a PENNDOT highway construction project.
4. Safety Engineer -- assists in reviewing applications involving:
 - a. An aboveground facility in a recognized accident cluster area (via M-930 U).
 - b. An accident damaged pole (via M-930 U).
5. Hydraulics/Plans Unit -- provides technical assistance in reviewing applications involving the flow of drainage (e.g., into or through highway right-of-way or onto adjacent property).
6. Bridge Unit -- reviews applications for a Bridge Occupancy License, provides technical assistance in reviewing applications involving an overhead or undergrade structure, work near a bridge footing, and any proposed blasting plan for impact on structures.
7. Geotechnical Engineer -- assists in reviewing applications involving mine activity, and activities which affect support of the highway, and all slope work for impact on the highway.
8. Construction Unit -- assists in identifying potential conflicts with contractors where Permit work could conflict with contract construction work, advises Permit Unit so that conflict can be avoided or cost of conflict can be mitigated.
9. Maintenance Unit -- Program 213 coordination (e.g., planned surface improvements, road widening, overlays).

M-930 U – Utilities

Note: Utility applications in the e-permitting system (EPS) will not require the use of M-930 U, however, routing within EPS shall follow the same format.

The District Permit Office shall review each aboveground utility Highway Occupancy Permit application that it receives to determine if the proposed pole location is:

1. on an accident cluster list,
2. an accident damaged pole, or
3. to be located in limited access right-of-way.

If it is determined that an application is in one of the above categories, the application shall first be reviewed by the District Permit Office for completeness and compliance with Regulation 459 and then routed consistent with the following.

1. Aboveground facility in accident cluster area.
 - a. The District Safety Engineer will develop and supply utility pole cluster lists to the District Permit Office. Use the lists identified as hit-fixed object, utility poles (8 accidents per 3,000 feet; 5 accidents per 100 feet). The District Permit Office will provide copies of the printout to each respective County Permit Office. The County Permit Office, upon receipt of an application from an aboveground utility, shall use the lists to determine if the pole is within a cluster list area. If so, identify on the application that a pole is in a cluster area.
 - b. After the District Permit Office review, the application shall be referred to the District Safety Improvement Unit, using Form M-930 U, for review.
 - c. The District Safety Unit will, using good engineering judgment, promptly review the proposed pole location(s) for such things as: unacceptable locations; located within guiderail deflection zones; previously established Clear Zones; roll-over guiderail end sections; gore areas; located on an accident cluster list but the specific pole location is not hazardous; previous hits on the original pole, conflicts with ADA. Documentation for decisions shall be made part of the Permit file. See Regulation 459 and Design Manual, Part 5.
 - d. The Safety Engineer will advise the District Permit Office, using Form M-930 U, whether or not the proposed pole location is acceptable.
 - e. If the Highway Occupancy Permit application is not approved, the District Permit Office will promptly notify the utility owner and request the owner to submit an acceptable alternate location. If an acceptable alternate location cannot be easily agreed upon, then request that the utility owner attend a field view meeting

to discuss acceptable alternate locations. A representative from the District Safety Unit will attend the field view. Document communications.

- f. If mutual agreement is reached at the field view regarding the owner's proposed pole location(s), the District Permit Office may then issue the Permit to the utility owner after a properly revised application and plan are submitted.
 - g. If an agreement cannot be reached, the District Permit Office will send a certified letter (see 'Form Letters' Folder (posted on PENNDOT WAN -- see footer)) to the utility owner rejecting the Permit application, and referring to the alternate locations discussed at the field view. The form letter will advise the owner of the right to request an administrative hearing before the Department to contest the rejection. In the case of an existing facility which is not approved, follow-up action is required after 30 days unless a hearing was requested.
2. Aboveground utility with accident damaged pole.
 - a. Applications to replace an accident-damaged pole shall first be reviewed by the District Permit Office for completeness and compliance with Regulation 459, and then routed to the District Safety Improvement Unit, using Form M-930 U, for paper review.
 - b. The District Safety Unit will review the application as described in Number 1, items c and d.
 - c. After the application (and Form M-930 U) are returned, the District Permit Office will either issue a Permit (if application was approved) or proceed as described in Number 1, items e, f and g. If it becomes necessary to send a certified letter, use the letter in the 'Form Letters' Folder (posted on PENNDOT WAN -- see footer). Follow-up action is required after 30 days.
 3. Utility facility in limited access highway right-of-way.
 - a. The District Permit Office will perform an initial review for completeness and compliance with Regulation 459 and Design Manual, Part 5 (DM-5) of any utility application proposing occupancy of limited access highway right-of-way. Should the District determine that a utility application not in accordance with DM-5 is appropriate for approval, they must route (using Form-930 U for paper applications) the application to the Central Permit Office for review and approval. Note: The District Permit Office may utilize the "General Checklist for Request to Occupy Limited Access Highway right-of-way", or consult the District Utility Relocation Unit if they are considering an exception to DM-5.
 - b. The Central Permit Office will review the application and determine if the exception to DM-5 is warranted. Note: FHWA concurrence is required, and consultation with the Central Office Utility Relocation Unit may be recommended.
 - c. The Central Permit Office will notify the District Permit Office of either an approval or denial of the exception to DM-5.

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 - c. Construction of sidewalk or curb by municipality.
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1.3 POLICIES AND PROCEDURES FOR OCCUPANCY OF HIGHWAY RIGHT-OF WAY

A. Occupancy of Federal Aid Freeways (Limited Access). Utility occupancy of a Federal Aid Freeway's right-of-way is required by 23 CFR, Part 645 to be in accordance with the Department's approved utility accommodation policy as defined in this Manual and provided in the current Freeways Occupancy Permit requirements and in compliance with applicable laws, including 67 Pa Code Section 459.7(10). It is the responsibility of the State under 23 CFR, Part 645 to maintain Federal Aid Freeways in a manner that preserves the integrity, visual quality, operational safety and functionality of the highway.

Existing underground facilities will be permitted to remain crossing the area to be acquired for limited access right-of-way providing such facilities are adjusted and/or protected in accordance with 23 CFR, Part 645 and access for servicing the facility is in compliance with Section 1.3.D.

The Department is authorized by the FHWA to act on its behalf in approving utility permits to occupy a federal aid freeway except installations on a federal aid freeway which involve the extreme case exceptions as defined in the current AASHTO Policy on the Accommodation of Utilities on Freeway Right-of-Way. In such cases FHWA concurrence is required prior to issuance of a highway occupancy permit.

A highway occupancy permit which involves limited access right-of-way contains, by reference, the following provision:

"Access for servicing or maintenance of facilities shall be made from outside the extent of limited access or as provided for in Paragraph 7 of the AASHTO Policy on the Accommodation of Utilities on Freeways and in accordance with Federal Highway Administration's 23 CFR."

Longitudinal occupancy of limited access right-of-way on federal aid freeways and state highways by utilities is restricted by State Law (see Section 1.2.B). The Department does not prohibit all such occupancy and may issue a highway occupancy permit where no other acceptable alternative is available and the utility is able to comply with all criteria described in Section 1.3.F.1. PennDOT's Central Office must approve this type of occupancy.

The Central Office Utility Relocation Unit is responsible for assuring that proposed utility occupancies of limited access right-of-way are in accordance with the Department's accommodation policies or obtaining FHWA concurrence in the issuance of permits relating to Department highway projects on federal aid freeways.

The Central Office Utility Relocation Unit's approval of satisfactory permit applications for Department highway projects must include any special permit restrictions required by the FHWA and/or the Bureau of Project Delivery.

B. Types of Occupancy.

1. Crossing Occupancies.

- Underground Crossings of Highway Right-of-Way.

The highway occupancy plan will show each crossing occupancy. Profiles or cross sections showing vertical dimensions will be included for every underground crossing, except for distribution and service facilities under curbed highways in cities, towns or boroughs and in business or residential districts as defined by the Vehicle Code. For crossings of such curbed highways the utility must provide typical cross sectional views of highway crossings and crossings of drainage and other utility facilities along with a general statement that these installations comply with Section 1.3.D.1.

- Aerial Crossings of Highway Right-of-Way.

Individual crossing profiles are required for each aerial crossing, which must provide minimum vertical clearances from finished roadway elevation to the lowest utility wire, cable or conductor that crosses the highway. (See Appendix A, Figure A-725).

Crossing Situations are aerial wire, cable or conductor facilities that cross the highway right-of-way.

Individual profiles are required for each aerial crossing and crossing situation where the National Electrical Safety Code requires increased clearances, i.e., voltages over 50,000 to ground and/or spans over 50 m (175 feet). (See Appendix A, Figure A-725).

2. Longitudinal. Longitudinal occupancies are aerial or underground utility facilities that continuously parallel the highway within the right-of-way.

The highway occupancy permit plans will clearly show the horizontal location of the facility and include a statement or a sketch that indicates the minimum depth of the underground facilities. Actual depths or vertical dimensions will be shown at specific locations where the installation may conflict with other utility facilities or with highway appurtenances.

3. Located. Located occupancies are individual utility facilities occupying highway right-of-way at a specific location, such as poles, towers supporting aerial facilities, guy poles, ground guys, fire hydrants, etc.

The highway occupancy plans will clearly show the horizontal location of the facility and include a statement or a sketch that indicates the minimum vertical clearance for aerial facilities. Actual clearances or vertical dimensions will be shown at specific locations where the installation may conflict with other utility facilities or with highway appurtenances.

4. Occupancy Permits on Existing Highways. A utility is required to apply for and be issued a highway occupancy permit prior to entering upon a right-of-way of a public road or street under the jurisdiction of the Department whenever it proposes to:

- Install a new pipe, conduit or other utility structure or make any opening within the highway right-of-way.
- Adjust, alter or reconstruct an existing pipe, conduit or other utility structure or make an opening within the highway right-of-way.
- Gain access to a limited access highway right-of-way for the purpose of inspection, maintenance or servicing of an existing aerial or underground utility facility, or for activities related to new installations.

The application for a highway occupancy permit is prepared by the utility in accordance with instructions on the Application and in Chapter 459, Section 459.3 and submitted to the respective District Permit Office. The drawings that accompany such applications must be of sufficient detail to provide a clear picture of the proposed work and include any necessary Traffic Control Plans in accordance with requirements of Publication 213, *Temporary Traffic Control Guidelines* and Chapter 3, *Preliminary Engineering*, Section 3.2.H.1.

The review of the permit application form as to its overall accuracy, completeness, fees and other Department requirements is the responsibility of the District Permit Office; application forms referred to the District Utility Relocation Unit will be considered to have received Permit Office approval.

Work required by the utility for maintenance and/or upgrading of its facilities in a highway construction or maintenance area does not require an occupancy fee.

Permit applications for occupancy of non-limited access highways are normally reviewed and approved by the District Permit Office. Prior to receiving the final approval, applications for utility installations should be reviewed by the proper District Office function to ensure that the proposed locations do not conflict with any planned highway improvement.

APPLICATION NO. _____
APPLICANT _____
COUNTY _____
S.R. _____ SEG. _____ OFF. _____

HIGHWAY OCCUPANCY PERMIT APPLICATION CLEARANCE UTILITIES

(SEE INSTRUCTIONS ON REVERSE)

- PROPOSED EXCEPTION TO DESIGN MANUAL, PART 5 FOR UTILITY FACILITY IN LIMITED ACCESS HIGHWAY RIGHT OF WAY
- ABOVE-GROUND UTILITY IN ACCIDENT CLUSTER AREA
- ABOVE-GROUND UTILITY WITH ACCIDENT DAMAGED POLE
- REQUEST FOR MODIFICATION
- RESUBMISSION

<p>1. District Permit Office</p> <p>Application Package Complete? <input type="checkbox"/> Yes <input type="radio"/> No (Obtain Information)</p> <p>Compliance with Utility Regulations (Regulation 459)? <input type="checkbox"/> Yes <input type="radio"/> No (Notify Applicant)</p> <p>Traffic Control Plan Forwarded to Traffic? <input type="checkbox"/> Yes <input type="radio"/> No <input type="checkbox"/> N/A</p> <p>Application Drawing Complete? <input type="checkbox"/> Yes <input type="radio"/> No (Resubmit)</p> <p>Compliance with Design Manual, Part 5? <input type="checkbox"/> Yes <input type="radio"/> No (Explain)</p> <p>Exception to Design Manual, Part 5 recommended? <input type="checkbox"/> Yes <input type="radio"/> No</p>	<hr/> <p>SIGNATURE DATE</p>
<p>2. Special Review</p> <p>SPECIAL REVIEW (e.g., Safety Liaison, Traffic)</p>	<hr/> <p>SIGNATURE DATE</p>
<p>3. Assistant District Engineer (DESIGN)</p> <p>Effect on Any Project in the Planning Phase, Preliminary Design Phase, or in Final Design? <input type="radio"/> Yes (Explain) <input type="checkbox"/> No</p>	<hr/> <p>SIGNATURE DATE</p>
<p>4. District Permit Office</p> <p>Central Office Review Required? <input type="checkbox"/> Yes <input type="radio"/> No (Cross out No.5)</p> <p>Traffic Control Plan Approved? <input type="checkbox"/> Yes <input type="checkbox"/> N/A <input type="radio"/> No (Explain)</p> <p>District Office Recommends Application be Approved? <input type="checkbox"/> Yes <input type="radio"/> No (Explain)</p>	<hr/> <p>SIGNATURE DATE</p>
<p>5. Central Permit Office</p> <p>Application Package Satisfactory? <input type="checkbox"/> Yes <input type="radio"/> No (Explain - Resubmit)</p> <p>Was Central Office Utility Relocation Unit Consulted? <input type="checkbox"/> Yes <input type="radio"/> No</p> <p>FHWA concurrence obtained? <input type="checkbox"/> Yes <input type="checkbox"/> N/A <input type="radio"/> No (Explain)</p> <p>Exception to Design Manual, Part 5 warranted? <input type="checkbox"/> Yes <input type="radio"/> No</p> <p>Concur with Issuance of Permit? <input type="checkbox"/> Yes <input type="radio"/> No</p>	<hr/> <p>SIGNATURE DATE</p>

INSTRUCTIONS

Please review the attached application package as it relates to your office. The application package consists of one completed application (Form M-945A), one set of detailed plans, and one set of any other information pertinent to the application. Use the space provided below for any special permit conditions or approval explanations. Identify your comments with your approval sequence number. Note all comments below, not on separate letters, notes, etc. unless additional space is required.

If approved, complete your sequence number block, including signature and date approved. Forward the application package to the next office.

If modified, make necessary changes, complete your sequence number block, including signature and date approved. Forward the application package to the next office. Notify applicant of all modifications prior to the issuance of any permit.

If disapproved, state your objections (in Explanations below) and any acceptable alternatives, including signature and date disapproved. Return the application package to the appropriate Permit Office.

**Approval
Sequence
Number**

CONDITIONS

The following conditions, which are in addition to the Department's Driveway Regulations, are to be included on the Permit:

EXPLANATIONS

The following explanations (not to be included on the Permit) set forth any unusual circumstances that relate to this application package:

General Checklist
for
Request to Occupy Limited Access Right-of-Way

Application #: _____ **Utility Name:** _____ **County Name:** _____
SR: _____ **Segment:** _____ **Offset:** _____

1. Make sure there's no longitudinal occupancy (see DM-5, Chapter 1.3.A).

2. Will access to the utility facilities be from outside or within limited access right-of-way? If within, how will the utility access them (see DM-5, Chapter 1.3.A)?

3. Check aerial and underground clearances (see DM-5, Chapter 1.3.B, C & D).

4. Are the utility facilities outside a specified clear zone area? If not, explain why (see DM-5, Chapter 1.3.C).

5. Does the package need to be sent to Central Office for approval?

(Underground Crossings in Limited Access Right-of-Way)

1. Is the underground crossing going to be cased or encased? If not, one of the five conditions listed below must be met (see DM-5, Chapter 1.3.D).

 - Uncased crossings may be considered for utility lines carrying water, gas, petroleum and petroleum products, steam, sanitary sewage and chemical lines provided they:
 - (1) Are cathodically protected and coated welded steel pipes for crossings of free access and limited access highways.
 - (2) Are ductile iron or reinforced concrete pipe (sewer and water only).
 - (3) Meet the requirement of the applicable Federal and industry standards with respect to wall thickness.
 - (4) Are designed for operating stress levels in accordance with Federal Pipeline Safety Regulations.
 - (5) Agree that, if in the future the crossing requires replacement, the replacement line will be bored at a new location.

Utility Corridor

In specific situations and under strictly controlled conditions, the Department may provide for joint development and multiple use of limited access highway right-of-way by establishing a longitudinal utility corridor parallel with the highway centerline (see DM-5, Chapter 1.3.F).

Extreme Case Exceptions

Prior FHWA concurrence is required for proposed longitudinal installations of private lines or approved installations which are not in accordance with Design Manual, Part 5.