Sub-part 7501 – Maintenance

Chapter 03001 Processing Permit Applications

Purpose

100 To establish a procedure for handling all Right of Way Encroachments permits (MND Forms) or agreements on state maintained highways and active projects.

101 This rule sets forth the process to require approved permits or agreements for all utilities located on the rights of way including those placed and/or adjusted under utility agreements in order that records be complete and certifications can be made that all utilities on projects are under proper agreement prior to being advertised for construction. The terms permit or agreements shall mean an approved written instrument in the form of an easement, MND Form, Utility Agreement or some special instruction defining the terms of such use and occupancy of highway right of way, and the manner in which such encroachments are to be accommodated thereon.

102 TABLE OF CONTENTS

1. SECTION 200 DEFINITIONS
2. SECTION 300 GENERAL
3. SECTION 400 PERMIT PROCEDURE
4. SECTION 500 REFERENCES

Definitions

200 Mississippi Transportation Commission, hereinafter the “Commission”.

201 Mississippi Department of Transportation, hereinafter the “Department” or “MDOT”.

General

300 Attention is called to the Commission’s, requirements that all persons must secure encroachment permits (MND Forms) for utilities, driveways, grading, or any facility placed upon or charge made in the right of way and that all work in connection therewith must be in accordance with said permit.

301 Applications for encroachment permits on state maintained highways are to be made to the District Office, which supervises the maintenance of the highway on which the permit site is located. Employees are to be headquartered at these offices responsible for providing assistance to the applicant in the preparation of the application in accordance with the requirements of the Commission’s regulations, inspecting the site at which the proposed work is done, signing the

application on the line indicating field inspection has been made and transmitting the application to the District Engineer with appropriate recommendation.

302 In order to properly discharge their assigned duties, it will be necessary that all personnel handling encroachment permits be kept informed of the limits of all proposed or active projects programmed and the changes in programming as the project advances. A planned highway improvement will be considered as being a proposed or active project on/or after any phase of development of the highway project is programmed and will be considered active until the date of final acceptance by the State or Federal Highway Administration, when applicable. When an encroachment application is first field inspected, the inspector should know whether a project is programmed at that location and the programming stage. Properly informed personnel may enable savings to be made in adjustments of utilities being constructed shortly before the right of way acquisition stage or prior to the beginning of construction. Although the adjustment may not be at state expense, the utility may realize a saving by being properly informed. The utility owner may elect to defer construction until the project plans are completed. Applications for other items such as driveways, frontage roads, grading, drainage and others may be affected by programmed construction. It is recognized that situations will arise that require special attention and in these and all other instances, cooperation will be required between the District Engineer, Maintenance Division, Roadway Design Division, Right of Way Division (Utility Section), Traffic Engineering Division and Bridge Division as applicable to the specific permit details.

Permit Procedure

400 SECTION 1. Permits for Al Sections of Highways Not on a Programmed Project. This section shall apply to all permits not otherwise covered under Section 401 and 402 below.

1. ROUTINE APPLICATIONS
   All applications, except those on the Interstate Highway System, other fully controlled access highways and those hereinafter specified, which comply with the Commission's regulations may be approved by the District Engineer or his/her authorized designee. Prints of the approved application and permit will be made as necessary for distribution to the applicant by the District Office. The approved original Permit Forms will be retained by the District Office. After the work has been completed, the District Engineer or his/her authorized designee will make an on-site inspection and if the work has been completed in accordance with the permit, one print of the approved application will be signed on the line provided for installation inspection and filed in the District. If the installation is not in accordance with the permit, the District Engineer will advise the applicant, in writing, of such nonconformance and that additional work must be performed before the work under the approved permit will be accepted.
2. INTERSTATE AND OTHER CONTROLLED ACCESS HIGHWAYS

All applications on the Interstate Highway System and other Fully Controlled Access Highways will be forwarded by the District Office to the State Maintenance Engineer with appropriate recommendation and all such applications that comply with the Commission's regulations may be approved by him after any necessary approval by the Federal Highway Administration is obtained. The original copy of the approved application will be forwarded back to the District Office for distribution to the applicant, filing and installation inspection as described in SECTION 400.1 above.

3. NON COMPLIANCE WITH REGULATIONS
   All applications not in compliance with the Commission's regulations regardless of the type of highway involved will be given special attention by the District Engineer in order that the application may be changed to comply with all regulations. If such change cannot be effected, the application will be forwarded to the State Maintenance Engineer with full explanation, including valid reasons, if any, why the application cannot be brought into compliance. It may then be referred through channels for consideration as a special circumstance. If authorized, the State Maintenance Engineer will approve the application. The original copy of the approved application will be forwarded to the District Office for distribution to the applicant, filing and installation inspection as described in SECTION 400.1 above.
4. OPEN CUT OF THE ROADWAY - TRAFFIC INTERFERENCE
   The approval of all applications which unduly interfere with highway traffic and all applications to open cut the surface of the roadway must be approved by the State Maintenance Engineer. Applications to open cut the surface of the roadway will show, in detail, the method used to replace the surface. When there is interference with highway traffic the application will show the traffic control plans as well as any necessary detour road. The original copy of the approved application will be forwarded to the District Office for distribution to the applicant, filing and installation inspection as described in SECTION 400.1 above.
5. SPECIAL REFERENCE
   The District Engineer may refer any application to the State Maintenance Engineer. A full explanation should accompany such applications.

401 <u>SECTION 2. PERMITS FOR SECTIONS OF HIGHWAYS ON ACTIVE PROJECTS</u>

This section shall apply to all permits not otherwise covered under Section 1 above and Section 3 below.

1. GENERAL
   a. Before a Federal Aid Project can be authorized for construction, all public utilities as located upon the right of way on the proposed project must be covered by a proper permit and/or agreement in accordance with Federal Highway Administration (FHWA) rules and regulations. These requirements will also apply to State Projects.
   b. Utility and all other applications as received in the District Office, if located on an active project, will have placed thereon the notation, "Active

Project No._____", and all other information considered essential. If a project is dropped from the program without a contract having been awarded, the section of highway thereon reverts to its original status and the procedure under SECTION 400 would be applicable.

c. The District Office will alert all personnel in charge of surveys to check the District Maintenance and Construction files for all approved utility encroachment permit applications and agreements. Where there are not approved applications and agreements on file for a utility, the District Engineer should request the Utility Company to complete a standard permit application and process the application through normal channels. If the utility may require adjustment, the permit application may be delayed until right of way plans are approved in order to show its proposed or final adjusted location as hereinafter set out. If the application is in accordance with regulations, it may be approved as set out in SECTION 400.1 above. If the application does not meet the regulations, it should be handled as set out in SECTION 400.3 above.

d. Applications for new utility installations which occur during the active program period must be properly authorized on the appropriate MND Form and approved by the District Engineer or his/her authorized designee except those outlined in the next paragraph. All permit applications on the Interstate highway system and other fully controlled access highways shall be processed through the Maintenance Division as in SECTION 400.2 above. It is noted that situations may arise that require special attention from other divisions of the Department. If so, the Maintenance Division will serve as the liaison between the District and Central Office.

e. For utilities that are in conflict with the construction of a proposed or active highway project and will require adjustments, or are to remain within the highway right of way, a proper permit application or agreement is required. Proper agreement forms will be furnished the utility company at the appropriate programmed stage. All permit applications are to be signed by the District Engineer or his/her authorized designee except in those instances previously designated.

402 <u>SECTION 3. PERMITS FOR SECTIONS OF HIGHWAYS UNDER CONTRACT</u>

1. Right of Way Encroachment applications on a section of a highway on which a contract has been executed will be handled as set out in SECTION 401.1.d above and will comply with additional requirements as follows:

   a. The applicant must furnish a letter from the prime contractor in which it is stated "It is expressly agreed that the construction as shown on the attached encroachment application by _____ will in no way interfere with the construction under contract, and upon approval by the Mississippi Department of Transportation may be performed as shown with the full knowledge and consent of the undersigned."

b. Applications will also be subject to the approval of the project or resident engineer supervising the contract and such approval will be indicated on the permit by initial and date.
c. The application will contain the highway project number.

403 SECTION 4. PERMITS FOR DRIVEWAYS FOR LARGE TRAFFIC GENERATOR DEVELOPMENTS

This section shall apply to all permits in SECTION 400, 401, and 402 above relative to large traffic generator developments.

1. All permit applications for driveways for large traffic generator developments will be processed in accordance with this Rule, Rule 37.I.-7501.04013, Driveway and Street Connections, Median Openings, Frontage Roads and Rule 37.I.7501.04002, Right of Way Encroachment Permits, and the MDOT Access Management Manual.

REFERENCES: (All references herein to other materials are as to the most current version of that particular document.)

500 37.I.7501.04002, Right of Way Encroachment Permits

501 37.I.7501.04009, Instructions for processing Form MND 603, Performance Bond

502 37.I.7501.06001, Accommodation of Utilities on Freeway Right of Way.

503 For Mississippi Code see www.state.ms.us

504 For Federal Government U.S. Code see www.gpoaccess.gov or www.dot.gov

505 For MUTCD and FHWA links see http://mutcd.fhwa.dot.gov and www.fhwa.dot.gov

507 MDOT specific rules, forms, publications, SOPs, and other support documentation are available for review at MDOT

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507 MDOT specific rules, forms, publications, SOPs, and other support documentation are available for review at MDOT

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