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December 27, 1995

INSTRUCTIONAL BULLETIN NO. 95-20

**Superseded
by 1996-2**

SUBJECT: Guidelines to Determine Right of Way with Regard to the National Pollutant Discharge Elimination System (NPDES)

EFFECTIVE DATE: December 27, 1995

SUPERSEDES: None

RE: Engineering Directive Memorandum PC-28 (Revised) dated December 1, 1995 -
"Guidelines for Adjusting Temporary and Permanent Right of Way with Regard to the National Pollutant Discharge Elimination System (NPDES)"

The referenced Engineering Directive Memorandum PC-28 (Revised) is attached for your use. The memorandum offers guidance in setting right of way with regard to NPDES features.

Through a discussion with Highway Projects and Right of Way, it is expected that permanent right of way will be used, in general, around sediment control basins. It has also been determined that for areas needed for items that run longitudinally with the center line, such as silt fence; those areas will be shown with an "NPDES line" only when outside of existing construction (slope) lines. Right of Way lines will not be determined by these longitudinal NPDES items that effect adjacent properties. When the "NPDES line" runs outside of the right of way line, this area will be obtained as permission. If the property owner will not sign for this permission, the "NPDES line" should be re-evaluated prior to converting the area to permanent right of way and condemning.

Permanent right of way should be set primarily to provide the area needed for the project's permanent features to include those areas to be permanently maintained by the Department.

E. S. Eargle
Road Design Engineer

Attachment

December 1, 1995

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION

ENGINEERING DIRECTIVE MEMORANDUM

Number: PC-28 (Revised)

Subject: Guidelines for Adjusting Temporary and Permanent Right of Way with Regard to the National Pollutant Discharge Elimination System (NPDES)

GENERAL

Determining the width of the permanent right of way is primarily a function of the typical section and drainage requirements for a section of roadway. Although these are the prevailing criteria to set right of way, an additional criteria has emerged in the past few years, which is based on the requirements of the National Pollutant Elimination System (NPDES).

Areas determined necessary due to NPDES for the construction and maintenance of erosion control items during construction may require additional right of way. All NPDES areas to be maintained after completion of a project are to be enclosed by permanent right of way. Temporary NPDES facilities will be covered by permission. If permission cannot be obtained, then the area will be condemned as right of way. In both instances, the area will be cleared and grubbed and seeded during construction.

Temporary NPDES facilities installed by permission will be seeded according to the temporary seeding schedule at the time of installation. The permanent seeding schedule should be used after the temporary NPDES facility has been removed and the area reclaimed. Permanent right of way will be seeded according to the normal seeding schedule. All seeding will be completed and paid for in accordance with the Standard Specifications for Highway Construction.

If the area needed for NPDES is to be reclaimed, then the quantity of soil for regrading shall be included in the total quantity of "Silt Basins" and the necessary seeding included in the plans. When it is necessary to reclaim the area where a "Sediment Control Structure and Basin" is located, the structure and appurtenances, all riprap associated with that basin, pipe connected to the structure, anti-seep collars, and the fence and gate surrounding the basin are to be removed and disposed of in the bid item "Temporary ____ mm (") x ____ mm (") Sediment Control Structure".

Where additional right of way is more difficult to obtain due to high cost, urban areas, wetlands, and/or significant trees, all means should be taken to circumvent such conflicts by minimizing the additional right of way and still allow implementation and maintenance of necessary erosion control facilities.

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
ENGINEERING DIRECTIVE MEMORANDUM

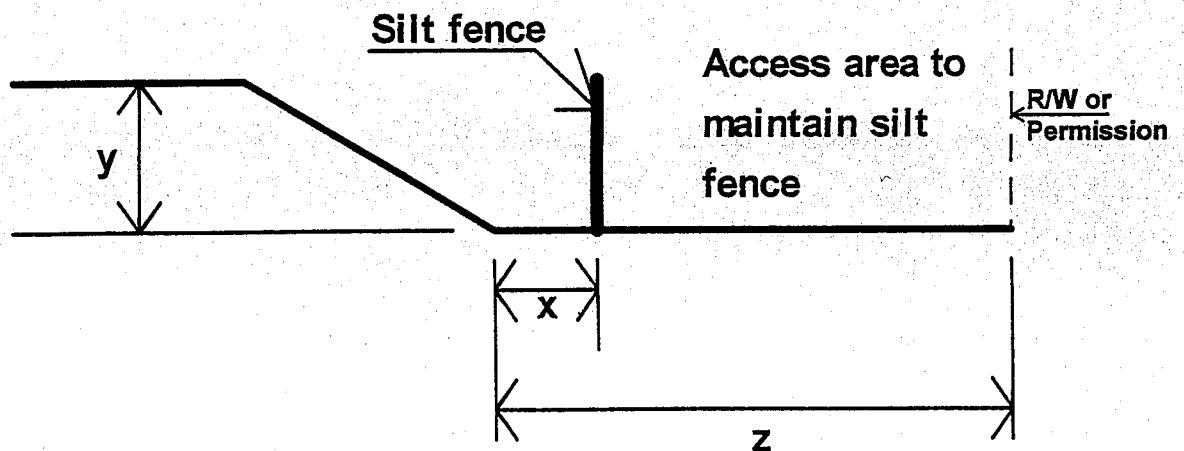
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SETTING THE LOCATION OF RIGHT OF WAY LINES

NPDES Areas

All fill slopes require silt fence in order to minimize the erosion of sediment off the project site. Silt fences should to be placed at or near the toe of the fill slope as prescribed in the following chart.

Height of Fill (y) in meters (ft.)	Minimum Silt Fence Offset from Toe of Slope (x) in meters (ft.)	Minimum Right of Way Offset from Toe of Slope (z) in meters (ft.)
<1.5 (5)	0	1 (3)
1.5 - 3 (5 - 10)	1 (3)	5.5 (18)
>3 (10)	1.5 (5)	6 (20)



An area behind the silt fence is needed to properly maintain the silt fence. Large equipment and trucks will use the area behind the silt fence to remove and dispose of any sediment collected by the silt fence or a nearby silt basin. When this area behind the silt fence cannot be obtained, the maintenance of the silt fence will be handled as best as possible during construction. Right of way needed to meet NPDES requirements may be by permission or permanent right of way or a combination of both.

December 1, 1995

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ENGINEERING DIRECTIVE MEMORANDUM

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Right of way limits in cut slope areas should be determined during the PS&E field review where interceptor ditches or other erosion control items are deemed necessary.

The right of way line should maintain a uniform alignment for a minimum of 100 meters (300 linear feet) and not fluctuate in and out, when possible. Discretion by the designer should be given when establishing right of way boundaries in order to minimize areas not needed for the construction and maintenance of the project.

**COORDINATION OF HYDROLOGY/NPDES STUDIES
WITH RIGHT OF WAY**

It is always preferable to have the complete final hydrology and NPDES shown on the plans for right of way acquisition. When the final hydraulic/NPDES designs are not available to be placed on the right of way plans, every effort should be made to include on the right of way plans all hydraulic/NPDES designs that effect right of way. However, when right of way plans have been sent to the Right of Way Section prior to receiving the final hydrology and NPDES studies, revisions to the plans especially to the existing hydrology and erosion control elements can be expected. Upon receipt of the final hydrology and NPDES from the Hydrology Section, Road Design will make the necessary revisions, noting appropriately on each sheet where the following revisions are made: "Revisions made in accordance with the hydrology and/or NPDES studies dated _____ (Project Engineer initials and date)".

Road Design will forward to Right of Way the revised sheets. If parcels, that have already been obtained or permission received, are affected by the hydrology/NPDES revisions, then the Right of Way Section should contact Hydrology and Road Design to try to work out those differences before revisiting the property owner.

CONSTRUCTION LINES

Additional areas to be cleared for NPDES will be shown on the plans when outside the construction lines. A special line denoting the additional area needed to accommodate items of work to meet the NPDES requirements should be placed on the plans only when necessary to go beyond the cut/fill slope line (construction line). This special line can be found in the custom line style palette and is shown here:

--- NPDES ----- NPDES ----- NPDES -----

Approved: W. H. D. B. III
Director of Preconstruction

Effective Date: December 1, 1995