200 PROCESSING PERMITS

This chapter describes the requirements and procedures for processing encroachment permit applications. A summary outline of the encroachment permit process is:

1. Submit application, supporting documents and any applicable fees
2. Project review and coordination
3. Issue encroachment permit
4. Inspect project during and after construction
5. Approve as-builts, process other requirements stipulated in the permit
6. Final accounting and billing/refund
7. Archive the permit file

201 APPLICATION PROCEDURE

Applicants (or their authorized representatives whose authority is validated by a letter or contract) must complete a "Standard Encroachment Permit Application" (form TR-0100), attach supporting documentation and submit them to the appropriate District Encroachment Permits Office having jurisdictional authority over the proposed encroachment site for processing.

In some instances, District Encroachment Permit Offices may accept a signed faxed or electronic application, with the original forthcoming in the mail.

When Caltrans necessitates relocation of an existing utility, the District's Division of Right of Way initiates a "Notice to Owner" (form RW 13-4), (also see Section 600.1) and forwards a copy along with a completed "Standard Encroachment Permit Application" (form TR-0100) to the District Encroachment Permits Office.

201.1 Application Forms and Documents

The "Standard Encroachment Permit Application" (form TR-0100), instructions, plan set requirements, sample application checklist and all other related forms can be found at:

http://www.dot.ca.gov/hq/traffops/developserv/permits/applications/index.html

Additional supporting documentation may be required depending on the scope of work such as: plans, location map, letter of authorization, environmental documentation, storm water permit(s), certification of compliance with Americans with Disabilities Act, surety bonds, liability insurance, etc.

Applications for broadband facilities, filming, salvage operations, litter pickup, installation and removal of tire chains, and roadside maintenance within State highway rights-of-way are addressed in specific sections of Chapters 500 and 600. The applications and forms for these types of permits vary from the Standard Encroachment Permit forms.

201.2 Permit Application Fee

In accordance with Section 671.1 of the California Streets and Highways Code, Caltrans has established a Fee Schedule (TR-0166, see Appendix H) and charges a fee for the issuance of encroachment permits, except to public corporations (See section 201.2A).

Checks for payment of permit fees or deposits shall be made payable to "Department of Transportation". All payments (coin, currency, checks, warrants) shall be logged and remitted to the District Cashier's Office by the next business day for deposit into the appropriate State bank account. (See Accounting Bulletin - "Cash Handling Policy").

1. Utility Permits

Utility companies have been granted deferred billing, and receive Progressive Billing statements from the HQ Division of Accounting on a monthly or quarterly basis. All staff shall maintain records of their time expended on all permits on "Encroachment Permit Report (Diary)" (form TR-0130), to assist the District Encroachment Permits Office in maintaining accurate records of all time expended on permits.

A "Progress Billing/Permit Closure" (form TR-0129) is used to record all inspection costs, and is also used in closing out a permit file and must be signed and dated by the District Permit Engineer, an authorized representative or the District Oversight Resident Engineer (RE) when applicable. It is then submitted to the HQ Division of Accounting for billing purposes.

2. Annual / Biennial Permits

These permits are issued on a yearly or two-year basis for conventional highways. Fees for Annual / Biennial Permits are charged a minimal of two hours of review to recover the time expended in the office for processing and administration. This privilege allows public corporations, utility companies and in some cases private corporations (ex: survey permits) the feasibility of performing everyday routine tasks and installations (service installations, etc.) without having to apply continuously for a permit, this privilege is revocable at any time.

201.2A Fee Exempt Encroachment Permits

The "Encroachment Permit Fee Schedule" (TR-0166, see Appendix H) shows how fees are assessed for the different types of permits and those permits which are fee exempt. Contractors are to pay a fee under a Double Permit "DP" when working for a fee exempt agency (public corporation). An exception to this policy occurs when the project is subsidized with State and/or Federal Highway funds (see item 2 Administratively Exempt Permits). Fee exemption categories are as follows:

1. Statutorily Fee Exempt Encroachment Permits

   Public corporations are statutorily exempt from encroachment permit fees. However, contractors working for public corporations are not exempt from fees (see Section 501.14). Caltrans' expenses for inspection costs are recovered by charging fees to the contractor.

Public corporations created for governmental purposes where the whole interest belongs to the government may be billed directly for inspection costs (as opposed to billing the contractor through the Double Permit) upon the public corporation's request or when authorized by a cooperative agreement.

A private corporation is organized for private purposes and profit.

Examples of public corporations are listed as follows:

* Federal and State Government
* Counties
* Incorporated cities and towns
* All municipal corporations, including:
  - Community Service districts
  - Road improvement districts
  - Irrigation districts
  - Reclamation districts
  - Utility districts
  - County water districts
  - Incorporated school districts
  - Sanitation and lighting districts
  - Special district libraries
* Agricultural associations

2. Administratively Fee Exempt Encroachment Permits

Some encroachment permit fees are waived by Caltrans' policy. These permits are referred to as *administratively exempt.* Headquarters approval shall be obtained for administratively exempt permits other than those listed below. Authority to waive fees is delegated to the Districts under the following types of administratively exempt permits and activities:

* Adopt-A-Highway Program
* Airspace rental (AS permits)
* Borrow or disposal areas used by a State contractor with approval in their contract to borrow or dispose within State Highway rights–of-way outside of contract limits
* Crop identification signs installed through the California Farm Bureau Federation's Crop Identification Program
* Double Permits (DP) issued for projects subsidized with any State and/or Federal Highway Funds
* Permits with a valid Project Code
* Double Permit (DP) for utility tree trimming
* Entities with prior property rights providing for the encroachment (e.g. rail roads)
* Environmental Enhancement projects
* Flags of the United States and the State of California displayed on sidewalks
* Landscape Maintenance (LM Permits)
* Locally funded project identification signs

* Mail and newspaper delivery boxes or newspaper vending machines (MB Permits)
* Permits for utility ownership that are installed by developers
* Memorial/Historical plaques and Blue Star memorial highway markers authorized by legislative resolution, at approved location sites
* Native American Tribal Developments or activities (associated with reservations or Rancherias)
* Projects authorized by a "Consent Letter" (Appendix D)
* Railroad crossing maintenance (RX Permits)
* Required construction signs outside State or locally funded contract project limits
* Salvage permit (Maintenance Loss Report)
* State ordered utility relocation covered by a Notice to Owner issued by District Right of Way (UR Permits)
* Transportation Art Program permits (AP permits)
* Caltrans initiated rider (RD Permits)
* Municipal Parades by community-based nonprofit organizations (see Special Events Section 514.1) commemorating recognized governmental holidays (e.g., Federal, State, and Local). Any other parade or special event by a nonprofit organization shall require permit fees. With City/County support for this type of special event, the District Permit Engineer may issue a permit. Approval of the parade shall be as described in Section 514.1.

201.2B Fee Calculations

Encroachment permit fees are calculated in the "Encroachment Permit Fee Calculation Sheet" (form TR-0406). The total encroachment permit fee is derived from the following components:

1. Review and Inspection Fee
2. Standard Hourly Rate
3. Field Work Fee
4. Bridge Tolls Fee
5. Miscellaneous Fees

These components are described as follows:

1. Review and Inspection Fee

The hours for review and inspection are established by one of two methods:

Set Fee Hours—**SF**

Actual Fee Hours--**AX**

Actual review hours include time expended for field review, and all time expended in processing and administration of the permit application. A minimum charge of one (1) hour applies to all permit applications and is included in the review hours shown on the Fee Schedule.

Set Fee Hours (SF)

Numeric hours shown on the Fee Schedule for specific types of permits are set on the basis of experience. SF Permits have numeric predetermined fixed hours for both review and inspection time.

Districts are encouraged to change unusual permits from "Set Fee" (SF) to "Actual Fee" (AX) at the option of the District Permit Engineer, but under no circumstances should the AX hours be less than the SF hours.

Actual Cost Permit Fee (AX)

AX Permits use the actual hours for project or activity review and inspection. The billing statement used to collect costs for services is an executed "Progress Billing/Permit Closure" (form TR-0129) signed and dated by the District Permit Engineer, an authorized representative or the District Oversight Resident Engineer (RE) when applicable. After the permit is issued, progress billings may be sent out for additional actual inspection hours worked.

Encroachment permits having an AX charge code require that a reasonable deposit for project review and inspection be collected at the time the permit application is submitted. The collection of costs for actual review hours expended and estimated inspection hours is required before the permit is issued.

When the initial deposit for inspection fees is expended, subsequent inspection fees are collected as costs are incurred during the project or after project completion and before release of the bond.

AX permits are final billed from an executed "Progress Billing/Permit Closure" (form TR-0129) signed and dated by the District Permit Engineer, an authorized representative or the District Oversight Resident Engineer (RE) when applicable, indicating that it is for a final bill.

2. Standard Hourly Rate

Each fiscal year, HQ Encroachment Permits establishes the Standard Hourly Rate used for calculating encroachment permit fees. This rate is derived from salaries and wages, operating expenses, and an overhead assessment. District Encroachment Permit Offices cannot change this rate.

The Standard Hourly Rate multiplied by the number of hours equals the item fee.

3. Field Work Fee (Anticipated by Caltrans' forces)

An example of fieldwork is when a Maintenance crew or a Traffic Operations team performs traffic control as a function of the encroachment permit. The Permit Engineer obtains an estimate of the hours from the appropriate Caltrans unit(s) who will perform the

work. This fee or deposit is collected from the applicant after review and before the permit is issued. Payment is required at the conclusion of the field work if there is a balance owed to Caltrans.

Field work conducted by Caltrans' forces may include the use of materials and equipment, the placement of traffic control, markings, striping, and/or signing related to installed permitted facilities.

Unplanned costs resulting from spilled loads, traffic control, or emergencies such as ongoing project or traffic accidents, are generally recovered by Maintenance and/or Traffic Management staff by submitting billing forms to the HQ Division of Accounting for processing outside of the encroachment permit process.

4. Bridge Toll Fee

A Bridge toll fee is collected for use of a toll bridge during a special event. The toll fee is equivalent to that charged for a seven-axle truck. (see Special Events Section 514).

5. Miscellaneous Fees

Department Furnished Materials

The costs of materials purchased or supplied by Caltrans to be used on encroachment permit projects (i.e. Traffic signal controllers, lighting, etc).

Transportation Laboratory Inspection Cost

The fee for inspection work or laboratory testing by the Division of Engineering Services, Office of Materials Engineering and Testing Services (METS), shall be at the standard hourly rate times the current "Standard Average Hours" published by the Transportation Laboratory. Districts with work not shown on the publication shall contact the Transportation Laboratory directly for an estimate.

Oversight Projects

Permits' staff hours for Oversight projects are charged directly to the Oversight project's Project Code. Administration and inspection reimbursements for projects having multiple phases must pay costs associated with each project phase under the appropriate Project Code.

Check the agreement for a fee exemption; most sales tax and local projects are fee exempt.

Adding the item fees gives the total fee. The Permit Engineer records all hours and calculations on the "Encroachment Permit Fee Calculation Sheet" (form TR-0406). The Permit Engineer ensures review hours are reported on the "Encroachment Permit Application Review" (form TR-0110) and the "Permit Engineering Evaluation Report" (PEER) (form TR-0112).

201.2C Billing and Overdue Accounts

When a progress payment or final payment for an encroachment permit project is due, the Permit Engineer sends a "Progress Billing/Permit Closure" (form TR-0129) signed and dated by the District Permit Engineer, an authorized representative or the District Oversight Resident Engineer (RE) when applicable, indicating the billing or refund information and a copy of the performance bond, if any, to the HQ Division of Accounting who then bills the permittee. Accounting also receives a copy of the "Encroachment Permit Log" (form TR-0111), which is used to chronologically log accepted permit applications, payments, and refunds. Log use is shown in Table 2.1.

Table 2.1
Permit Log Form Use

1. A copy of the log and all billing or refund requests, as listed on the log should be mailed weekly to Accounts Receivable in the HQ Division of Accounting. It is not necessary to begin a new log sheet each week after sending the copy.
2. Continue to use the first column for all encroachment permit numbers assigned to applications when they are accepted (logged in). These will be in chronological order from the beginning of each year. In the designated columns, enter the applicant's name, location of work, payment type, amount of any deposit/fee paid to the District Cashier, and date logged in.
3. When a deposit/fee is paid to the District Cashier at a later date, a refund is requested, or a billing document is sent to Accounts Receivable for progress/final billing, use the next available line on the current sheet. Use the second column to enter the permit number for the payment or billing. Use the sixth column for the amount of the billing or payment to the District Cashier. Use the seventh column for the date payment was received by the cashier--for refunds, show a negative amount in the sixth column. No other columns need to be completed.

If the bill is not paid within 30 calendar days from the bill date, the HQ Division of Accounting will send a past due notice to the permittee requesting payment within 30 calendar days. After 60 calendar days from the bill date, a notice will be sent demanding payment within 15 calendar days. At this time, the HQ Division of Accounting will send the third copy of the 60 calendar day notice to the HQ Encroachment Permits Office. This notice copy is then sent to the appropriate District Encroachment Permits Office. Each District Office will make a list of repeat applicants and notify them of unpaid fees and that any new permits will only be issued after resolution with the HQ Division of Accounting.

If a performance bond was required for the work, the HQ Division of Accounting will attempt to collect the overdue amount from the bonding company before sending the account to a collection agency.

The account will be turned over to a collection agency after 90 calendar days from the bill date unless arrangements have been made through the Permit Engineer for payment of the account. The arrangements must be acceptable to the HQ Division of Accounting.

If a utility company does not pay its permit bills within 60 calendar days, a deposit can be required for future permits instead of the deferred payment arrangement normally extended to utility companies. Also, bonding may be imposed (see Section 203.4 & Table 2.7).

201.3 Refunds

A refund is provided when the total deposits exceed Caltrans' expenses in processing the permit. A minimum cost of one hour's time at the current Standard Hourly Rate is retained as an application-processing fee when a refund is appropriate. An application that was inappropriately accepted by the District Encroachment Permits Office shall be totally refunded (Table 2.2 indicates the refund of permit fees when appropriate for various circumstances of permit applications). Refunds shall be documented on the "Progress Billing/Permit Closure" (form TR-0129) signed and dated by the District Permit Engineer, an authorized representative or the District Oversight Resident Engineer (RE) when applicable.

This should be sent to:

HQ Division of Accounting
Attention: Office of Accounts Receivable/Program Accounting
Accounts Receivable Branch--Encroachment Permits

The date and amount of the original transaction, copies of any checks, along with all account information, should be indicated on the "Progress Billing/Permit Closure" (form TR-0129)

The HQ Division of Accounting will issue a refund to the payer. In cases where there are multiple parties (permittee, authorized agent/contractor), the refund will be issued to the party who made the payment unless written mutual documentation (between the permittee and their authorized agent/contractor) indicates that the refund should be issued to the other party.

In accordance with Government Code Section 13144, refunds exceeding $10,000 require approval by the California Department of Finance. The following documentation is required:

- Copy of the payment instrument (usually a check)
- Accounting transaction showing check number, name of payer and dollar amount
- Calculation of refund amount due

If the HQ Division of Accounting cannot locate the payer or the payer's address then the refund is forwarded to the California State Controller's Office of unclaimed property.

Table 2.2
Refunds of Permit Fees

Permit fees may be refunded as shown in this chart, depending upon the status of the permit application.

Status of Permit Application	Appropriate Refund
A **SF** (Set Hours) permit is denied as a result of the review process.	The unexpended portion of the total fee collected for inspection, field work, bridge tolls, and miscellaneous fees.
An **AX** permit is denied as a result of the review process.	That portion of the deposit that represents collected but unexpended review and inspection fees.
The applicant cancels the permit application before a permit is issued.	The collected but unexpended review and inspection fees.
The permittee cancels the permit application after the permit is issued but before work has started.	That portion of the total fee collected that represents inspection and field work.
The permittee cancels the permit application after the permit is issued and after work has started.	None.

201.4 Permit Number

A permit number is assigned when an application is accepted as complete. Encroachment permit numbers conform to the following format:

DISTRICT	YEAR	BILLING TYPE CODE	PERMIT TYPE CODE	CHRONOLOGICAL NUMBER

DISTRICT: Two digit District number. (01 through 12).

YEAR: Last two digits of the calendar year in which the permit application is assigned a number.

BILLING TYPE CODE: One of four characters:

- 6 for Caltrans fee permits
- 7 for permits issued by Cities and Counties (see Section 500.4)
- N for Fee Exempt permits
- A for Administrative permits (see Section 500.0 and 600.0)

PERMIT TYPE CODE: A two-alpha character designating the type of encroachment as shown in the Permit Fee Schedule.

CHRONOLOGICAL NO.: A four digit, serially issued number from 0001 to 9999, starting with 0001 each calendar year. A numbering machine (Simplex) is used to stamp the application form, with a permit number when the applicant pays the fee or deposit. The District Accounting Office controls the setting of the machine number.

Each District has a numbering machine (Simplex) to number the permit application in the format illustrated below. The first two of the six digits represents the year the application is accepted. The

last four digits are the chronological numbers of the application. The Permit Type Code is entered manually. The Billing Type Code is indicated by manually striking out three of the four symbols 6, 7, N or A.

SIMPLEX STAMP

__ __		__ __ __ __
Year		Chronological Number
__ __	6 7 N A	____ ____
District	Billing Type Code	Permit Type Code
	(cross out three)	

At the start of each calendar year, the Simplex machine must be reset so the correct year is indicated and the chronological number is adjusted back to 0001.

201.5 Processing Applications

In accordance with California Streets and Highways Code, section 671.5 (a), Caltrans is required to either approve or deny an encroachment permit application submittal within 60 calendar days, upon determination that the submittal is complete.

Section 671.5 grants Caltrans the authority in determining what constitutes a complete submittal. The District Permit Engineer, acts on behalf of the District Director in making that determination. All applicable Federal and State statutory requirements including but not limited to Storm Water, Americans with Disabilities Act (ADA), California Environmental Quality Act (CEQA) must be complied with prior to a submittal being deemed as complete.

The Office of Encroachment Permits has established functions, to ensure compliance with the 60 calendar day statutory requirement. These functions include:

1. The Encroachment Permits Management System database (EPMS) (see Section 201.6).
2. A response time goal of a 45 calendar days or less for all submittals.

After performing an initial screening of the submittal for completeness, the Permit Engineer will send out a letter to the applicant acknowledging its receipt and whether or not it has been rejected or conditionally accepted.

If the submittal was rejected, the letter will detail the reason(s) for the rejection and list the required item(s) to be included with the resubmittal.

If the submittal was conditionally accepted, the Permit Engineer will assign an Encroachment Permit number and distribute it to the necessary Caltrans units to review it for compliance with policy, design and construction standards. These reviews and comments are due back to the Permit

Engineer within 10 business days from the date of distribution. Once these are compiled, the Permit Engineer will make a determination as to whether or not an Encroachment Permit should be issued.

If additional information, revisions or supporting documentation is needed, the Permit Engineer will send a letter to the applicant informing them that their submittal is denied without prejudice based upon the need for revisions and/or supplemental information.

The applicant will be given a period of at least 30 calendar days to resubmit with the requested information, and the option to contact the District Encroachment Permits Office in writing to request additional time if needed. If a resubmittal or a response is not received from the applicant by the given date, the submittal may be denied without prejudice and the file will be closed.

The 60 calendar day clock stops when a denial letter is sent to the applicant (via certified mail with return receipt) informing them of the denial. A new 60 calendar day clock begins upon receipt of the resubmittal from the applicant.

If the application is denied due to noncompliance with Caltrans' standards and/or policies, a denial letter will be sent to the applicant detailing the reason(s) for the denial and instructions on the appeal process (see section 304).

201.6 Tracking Permit Applications

The Encroachment Permits Management System (EPMS) is a database system that provides informational reports to Caltrans' staff regarding the status of existing application packages and ongoing permits, it also provides information on resources expended on each individual permit. The database assists management to ensure that statutory time constraints are complied with, and that reviews are done on time.

Districts are responsible for maintaining the integrity of the information in the database. Any unauthorized modifications to the database could result in non-retrievable functionality and loss of data. Any issues with the database shall be reported immediately to HQ Encroachment Permits.

The District Permit Engineer assigns the responsibility of data input and maintenance of the database to members of their staff. These staff members provide monthly reports to the Permit Engineers with the most current information on the progress of application packages, and existing permits that they are responsible for (see Table 2.3).

Table 2.3
Procedures for Maintaining the Permits Database and Tracking Permits

Specific steps for maintaining the permits database and for tracking permits are as follows:

1. Permit applications are logged into the database to create a permit record when the Simplex numbers are stamped on new permit applications. This step starts the 60 calendar day statutory period for permit approval or denial. The record should include pertinent information shown on the application, including:
    - Permit number
    - Name of permittee
    - Date application is received and numbered
    - Project location (county, route, and post mile)
    - Description of proposed work
    - Comments concerning the application (e.g., longitudinal encroachment, etc.)
    - Performance Bond and Payment Bond numbers (when applicable)
    - Estimated cost of work within State highway rights–of-way
    - Caltrans' Project Code if applicable to the project
    - Applicant's Reference Number /Utility Work Order Number
    - Set fee, deposit, or total fee (use as applicable)
    - Permit writer (person coordinating review of the application)
    - Name of inspector (if known)
    - Primary permit number (if record is for a Double Permit "DP" or permit rider)
2. Enter the dates that requests for review are sent to appropriate reviewing functional units.
3. Enter the dates that reviews are returned to Encroachment Permits and request each functional unit log the number of review hours to permits (fee based and fee exempt). Enter the review hours that were charged to the Permits' Project Code on the database and on the "Progress Billing/Permit Closure" (form TR-0129).
4. Each business day, the person responsible for maintenance of the database prints the list of reviews that are past due and asks reviewing units to respond.
5. Respond in writing to all applications requiring additional information after all reviews are returned. Enter into the database under "letter sent" the date that any letter is sent to an applicant.
6. Issue permits when all reviews are returned and the application is complete, and the issue date and expiration date are entered in the database. Additional fields completed are:
    - Date permit is issued
    - Permit expiration date
    - Performance Bond and Payment Bond Numbers (if applicable)
    - Total fee (if applicable)
    - Date application is complete (the date all reviews are returned as acceptable)
    - Name of inspector
    - Transportation Laboratory's standard or estimate of hours
7. Enter in the original permit record under "response received" the date that additional information was received. Review procedures start and are processed as in Steps 2 through 6 above.
8. Notify the District Permit Engineer daily of 45 calendar day old applications that have not been acknowledged. Permit Engineers must respond immediately to these applications to avoid permits by default.
9. Print a weekly list of expired permits and require time extensions or completion notices. Inform permit inspectors regarding permits in their area of responsibility.
10. Enter in the database the completion date, actual inspection hours, and any time expended by other Caltrans units on the "Progress Billing/Permit Closure" (form TR-0129) signed and dated by the District Permit Engineer, an authorized representative or the District Oversight Resident Engineer (RE) when applicable are submitted. Upon completion, submit to the HQ Division of Accounting for billing. All fields should be filled out indicating hours and total fees/deposits and balance.
11. Enter permit riders that are requested into a new database record and cross-reference them to the original permit. Modify the original permit record to include any time extensions and reference the rider. Manage any reviews required for the rider as in Steps 1 through 6 above.

202 REVIEW PROCESS

The "Encroachment Permit Application Review" (form TR-0110) is used for transmitting a proposal for encroachment to other Caltrans units for review. The reviewing unit must fully detail its comments about the proposal and its number of expended review hours.

202.1 General Criteria for Evaluation of Encroachment Permit Applications

The District Permit Engineer is responsible for determining the complexity of proposed projects submitted to Caltrans, and when there is a need for an Agreement between the applicant and Caltrans for maintenance and/or responsibility purposes.

Generally, in most cases the dollar value of the proposed work within the existing or future State highway rights-of-way determines responsibility for processing. In some cases though, it is the complexity of the proposed project which will dictate responsibility.

The criteria for determining which "Office" is responsible for processing is listed as follows:

1. Utility Construction Projects and Drainage Projects regardless of costs are Encroachment Permit Projects.

2. Current policy allows Highway Improvement Projects costing $1,000,000 or less to follow the Encroachment Permit Process. In some cases, proposed projects with a cost value of less than $1,000,000 within State highway rights–of-way can become the responsibility of Project Development, due to:

    a. Complexity, or
    b. Location, in the same area where Caltrans has proposed or has the intent for a future improvement.

3. Highway Improvement Projects costing greater than $1,000,000 but less than $3,000,000 would be allowed to follow a streamlined process similar to the Encroachment Permit Process, except that Capital Outlay Support staff would take the lead in processing. Concept and project approval would be through completion of a Permit Engineering Evaluation Report (PEER). After approval of the PEER, an encroachment permit would be issued.

4. Highway Improvement Projects $3,000,000 or greater would be processed through the normal Project Development Process and would receive an encroachment permit at the end of that process. Exceptions to this policy would require approval of the Chief Engineer.

Existing policy allows Caltrans to require the full Project Development Process for complex projects (e.g. projects that require California Transportation Commission action). Under this new policy, Caltrans will retain the right to increase the level of documentation and processing for those projects that are deemed complex.

Submittals are reviewed to determine the impacts of the encroachment on:

- The safety of motorists, pedestrians, and workers.
- Design, construction, operation, maintenance, or integrity of the highway system.
- Future and on-going highway contracts.
- Aesthetic value of the highway corridor.
- The Environment.
- Existing drainage
- Water quality
- The risk of tort liability

Caltrans' policy is to cooperate with the Reclamation Board regarding submittals for encroachment permits to install underground facilities where a State highway is on, or crosses a levee under the jurisdiction of the Reclamation Board. An applicant is required to furnish proof of a Reclamation Board permit before an encroachment permit can be issued.

202.1A Conflicting Permits

A permit applicant may propose work requiring the removal or relocation of conflicting improvements installed under prior encroachment permits, e.g., the removal or relocation of a driveway, curb, or gutter, for a highway widening permit application. The applicant must arrange for any such removal or relocation. The General Provisions (TR-0045, #11) require relocation of conflicting encroachments at no cost to the State as a condition of the permit. Priority is given to the first encroachment.

202.1B Location of Encroachment in the State Highway rights-of-way

Encroachments should not create a public hazard, disrupt highway operations, pose a maintenance problem, restrict pedestrian facilities, or interfere with future highway construction. Consideration should be given to utility placement located in right of way that is planned for expansion.

Care must be taken to prevent encroachments that devalue State highway rights–of-way. Potential for airspace leasing in operating rights-of-way, future rights-of-way, or other potential operating uses of excess lands must be preserved. Permit applications describing work in non-operating rights-of-way shall be sent to District Right of Way for review. In some cases, District Right of Way may handle the encroachment request.

202.1C Traffic Considerations

GENERAL

When encroachment permit projects impact traffic, the permittee assumes responsibility for financing and constructing traffic control and safety features. Traffic control for day or nighttime lane closures is governed by Caltrans' Standard Plans for Traffic Control Systems. The appropriate traffic plan should be added as a special provision to the encroachment permit.

TRAFFIC DELAYS AND LANE CLOSURES

Encroachment permit projects require a Transportation Management Plan (TMP) if the anticipated traffic delay resulting from the permit operation or lane closure is 30 minutes above the normal recurring traffic delay or the delay threshold set by the District Traffic Manager (DTM), whichever is less.

TMPs and contingency plans for Encroachment Permit projects are developed by the permittee or by Caltrans' staff. Staff time for development, review, and implementation of TMPs for Encroachment Permits is charged to the permit (see Section 7.2 of the TMP Guidelines). The TMP is developed by the applicant and when implemented, it should minimize or eliminate project-related traffic delays and accidents (see TMP Guidelines and Deputy Directive DD-60, Appendix E).

When lane closures are contemplated on State freeways, expressways, and conventional highways, a lane closure request is submitted to the District Lane Closure Review Committee (LCRC) for approval if the closure is estimated to cause additional traffic delay of more than 30-minutes or the delay threshold set by the DTM, whichever is less (see TMP Guidelines, Appendix E). A review is not required for emergency lane closures, i.e., accidents, natural disasters, earthquakes, storm damage, hazardous material spills, vehicular accidents, etc.; nevertheless, DTM notification is required.

The District Permit Engineer or designee submits the proposed lane closure through the District Traffic Manager for review before sending it on to the District LCRC. If the DTM can reduce the delay to less than 30 minutes, then the District LCRC review is not necessary. The submittal to the DTM should contain information listed in the TMP Guidelines shown in Appendix E. Transportation Management Centers (TMC) in metropolitan areas must be notified at least seven days in advance of any planned lane closures.

In addition to the lane closure submittal, the applicant should develop a contingency plan that identifies actions to be taken to restore or minimize affects on traffic during lane closure operations when the congestion or delay exceeds original estimates. The Contingency Plan should contain information shown in the TMP Guidelines shown in Appendix E.

Approval

Proposed lane closure submittals must be sent to the District Traffic Manager (DTM) in sufficient time to allow approval at least 7 days in advance of lane closure operations. The project's complexity may dictate the amount of lead-time required. LCRC approval is only for lane closure dates and times requested.

The District Permit Engineer assumes responsibility for notifying the DTM if there are changes to the originally approved closure. The DTM shall review approved lane closure plans 3 days before the date and time of the proposed lane closure operation. If in the DTM's opinion the changes materially alter the nature of the original proposal, the LCRC will reevaluate the revised proposal.

Evaluation Statement

The District Permit Engineer shall prepare a statement on projects that exceed expected delay or run outside of the closure window. The statement shall be prepared within 5 working days of

exceeding the threshold criteria (for statement explanation see the TMP Guidelines shown in Appendix E).

Exception

Unless the traffic delay threshold is exceeded, LCRC approval is not required.

MOBILE WORK

Encroachment activities for mobile work (slow continuous motions and/or frequent stops within a traffic lane) must comply with the requirements provided in Conventional Highway Mobile Work Special Provisions (see Appendix K). The activities are:

- Moving operations (work activities, such as striping, sweeping, etc.) that move along the road without stopping, usually at slow speeds.
- Short-term work activities that can be performed during light traffic volumes, do not interfere with traffic, and do not place the employee in jeopardy. Examples of such work include pavement patching, pavement marker replacement, etc.

Several references are made on the standard plans to "approach speed," which could be a posted speed limit, an off-peak 85-percentile speed, or an estimated speed determined by several drive-throughs of the job site area. Many areas are not posted, so this reference is intended to allow judgment in applying the realistic speed of traffic where necessary to determine traffic control devices and requirements.

202.1D Traffic Control System Plan Changes

Requests to use different plans or to revise the approved standard plans should be directed to the District Traffic Engineer for approval.

202.1E Traffic Unit Review

The appropriate District Traffic unit shall review permit applications having traffic or safety impacts, when required by other portions of this manual or if the Permit Engineer determines that such a review is necessary. A Transportation Management Plan (TMP) is required if significant traffic delays and hazards are anticipated during construction (see DD–60 R-1, Appendix E). Procedures and responsibilities detailed in a TMP are addressed during encroachment permit review by District Traffic staff.

202.1F Field Review before issuing permit

Pre-inspection of the site sometimes is necessary to ensure that the proposed work is not detrimental to the State highway or the safety of highway users. The Permit Engineer should ensure that the proper personnel are involved in this pre-inspection.

202.1G Other Reviews

Proposals for encroachments may require review by other units. Such reviews ensure coordination with subsequent maintenance operations and planned future development by Caltrans or others.

A permit cannot be issued without environmental clearance. Chapter 400 discusses specific requirements for environmental review of encroachment permit applications.

202.2 Project Report or PEER Document

A Project Report or a "Permit Engineering Evaluation Report" (PEER) (form TR-0112) is required for every action that has a permanent traffic impact and for work that affects the operating capability of a State highway facility.

All Highway Improvement Projects that are between $1,000,000 and $3,000,000 require a PEER. These reports, and their preparation, are discussed fully in the Project Development Procedures Manual. Their preparation is either the responsibility of Project Development or Traffic Operations.

However, on projects less than $1,000,000 the District Encroachment Permits Office must verify that the responsible reviewing units have considered the need for the appropriate report and have correctly completed the "Encroachment Permit Application Review" (form TR-0110).

202.2A Projects Requiring a Permit Engineering Evaluation Report (PEER)

A "Permit Engineering Evaluation Report" (PEER) (form TR-0112) is prepared to document the engineering analysis of proposed work. The Proponent of the project is responsible for the submittal of the project description/proposal section of the PEER as well as all other necessary documentation. (See Project Development Procedures Manual)

Approval of the PEER is the responsibility of either Project Development or Traffic Operations on all projects up to $3,000,000. The analysis includes review of the proposed work to determine drainage, maintenance, operation, and environmental impacts to the State highway system. All proposed work shall conform to the Caltrans' current standards and practices, or be justified by an approved exception.

On proposals that are too complex to be adequately described in a PEER, the District may require that a combined PSR/PR format or a PR format be utilized in lieu of the PEER format.

Exceptions to mandatory and advisory design standards must be documented by the required Fact Sheets, and attached to the PEER. The District Director or the delegated representative is responsible for approving the PEER.

Projects costing $1,000,000 or less and are not financed with local sales taxes may require a PEER.

Projects costing $1,000,000 or less and are financed with local sales taxes require a PEER or a combined PSR/PR to serve as the IPR (Initial Project Report), this is required by California Government Code Section 14529.11. If there is a Master Cooperative Agreement with a Sales Tax Measure Authority, an additional Cooperative Agreement may not be required.

Permit applications for projects requiring a PEER shall comply with Table 2.4.

Table 2.4
Permit Procedures for Projects Requiring a PEER

These permit procedures are followed for projects that require a "Permit Engineering Evaluation Report" (PEER):

1. The appropriate fee is determined and the application is accepted.
2. Engineering and technical reviews are performed; additional information is requested from the applicant if it is needed to perform the reviews. A permit may be denied based upon conclusions of the reviews.
3. A "Permit Engineering Evaluation Report" (PEER) (form TR-0112) is prepared.
4. Bonding requirements are determined.
5. Additional fees, if required, are collected.
6. An encroachment permit is issued to the applicant and distributed to other Caltrans' units.
7. The applicant begins work authorized by the permit. Project work is inspected by Caltrans for compliance with the permit.
8. As-built plans are received, a "Progress Billing/Permit Closure" (form TR-0129) signed and dated by the District Permit Engineer, an authorized representative or the District Oversight Resident Engineer (RE) when applicable is issued, and bonds are released.
9. Records are microfilmed and the project is closed out.

202.2B Projects Not Requiring a PEER

Projects not requiring a PEER are usually commercial filming, miscellaneous activities, special events, surveys, and utilities. These permit applications involve the same steps as outlined in Table 2.4 with the omission of Step 3.

202.3 Oversight Projects

Projects located within the existing or proposed State highway system costing over $1,000,000 and financed with revenues from sources other than the State Highway Fund, e.g., a city, county, local transportation authority, local transit agency, or private entity, are called Oversight Projects.

These local and private entities finance improvements on the State highway system using funds obtained from local sales tax measures, local non-sales tax revenues or development mitigation fees, and private sources.

The Office of Special Funded Projects (OSFP) Information and Procedures Guide gives detailed guidance for developing Oversight projects constructed on the State highway system. It is available at:

http://www.dot.ca.gov/hq/esc/osfp/osfp-manual/osfp-manual.htm

202.3A Pre-Approved Cooperative Agreements

Caltrans is required to enter into Cooperative Agreements with local entities for all proposed projects to be constructed upon the State highway system costing more than $1,000,000 within existing or future State highway rights-of-way, regardless of the source of funding.

By contrast, projects $1,000,000 or less generally do not require a Cooperative Agreement. These agreements do contain a provision requiring the issuance of an encroachment permit.

Caltrans has pre-approved State Independent Quality Assurance (IQA) Agreements to be used for Oversight projects sponsored by a local entity (see Cooperative Agreement Manual).

Caltrans and private developers are required to execute a Highway Improvement Agreement for any State highway project funded by private entities that costs more than $1,000,000 for improvements located within the existing or proposed State highway rights–of-way.

Caltrans also has a pre-approved Highway Improvement Agreement and Escrow Agreements that are used with private developers on State highway improvement projects funded by private entities (see Cooperative Agreement Manual).

Double Permits "DP" with appropriate fees are required for contractors performing work under these agreements, unless these conditions are specifically waived in an agreement. "DPs" and fees are required if the agreement is silent.

202.3B Issuing Encroachment Permits for Oversight Projects

Cooperative Agreements and Highway Improvement Agreements establish the respective responsibilities of Caltrans and the local entity or private developer for all proposed project development work, including environmental studies, documentation, and clearance.

The Project Manager is responsible for developing and executing cooperative agreements.

Encroachment permits shall not be issued for Oversight projects without the District Encroachment Permits Office receiving a copy of the required, fully executed agreement. The agreement will specify whether or not there will be a charge to the local agency and/or its contractor for their encroachment permits.

An "Encroachment Permit Administrative Route Slip" (form TR-0154) is used by the Project Manager to request from the District Permit Engineer the issuance of an encroachment permit. It certifies that the project has been reviewed and approved and does not require any further coordination. The permit usually can be processed and issued shortly after the Permit Engineer receives an application with approved plans and an executed agreement for construction.

202.3C Public Transit Projects

Public transit projects financed by others (other than by the State) and located within existing or future State highway rights–of-way and having a construction cost of more than $1,000,000 shall be considered an Oversight project. Responsibilities and costs for project development work, right

of way, construction, utilities, liability, ownership, operation, and maintenance must be established in a Cooperative Agreement with Caltrans. Project Development is the responsible division to guide the project proponent through the project development process.

A copy of the fully executed agreement and approved plans shall be delivered to the District Encroachment Permits Office before an encroachment permit is issued to the transit agency and its contractor for construction work within State highway rights–of-way.

202.3D Project Development Procedures

Caltrans is exposed to tort liability, operational and possible maintenance responsibilities by any expansion or improvement of State highways using local resources. Therefore, such projects that are more than routine must comply with the Project Development Procedures Manual (PDPM) and the Environmental Handbook (EH). The permit applicant is required to use the project development procedures that Caltrans uses to do the same work. These include the project development teams, project reports, and project development categories described in the PDPM.

Caltrans' policy is that all State highway improvement projects funded totally by others and having a construction cost of more than $1,000,000 must be approved in concept by a Project Study Report and approved in a Project Report following environmental compliance and public input. Caltrans is normally responsible for the PSR if it can be done on a schedule Caltrans is able to meet, and the local agency or private developer is responsible for preparing the Project Report (except for Sales Tax Measure Projects). This requirement can create special timing problems for applicants and should be pointed out during initial discussions.

An abbreviated process utilizing a Combined PSR/PR format or the PEER is available for projects meeting certain criteria which enable a local agency or developer to prepare a combined document on their own schedule and at their own expense in lieu of the PSR and the PR. Applicants should be given a copy of the "Procedures Guide for Oversight Projects" and "Guidelines for the Preparations of Combined Project Studies Report/Project Report for State Highway Projects Funded by others" during initial discussion.

202.4 Traffic Controller Assemblies

Caltrans provides Traffic Signal Controller Assemblies for installation on all State highway projects involving signal systems. Caltrans is reimbursed for the controller assembly acquisition, quality assurance testing, and delivery. The method of reimbursement to Caltrans depends upon the type of recipient and contractual relationship. Controller allocation criterion is described as follows:

JOINTLY FUNDED COOPERATIVE AGREEMENT PROJECTS:

Caltrans provides Traffic Signal Controller Assembly as a contribution to its share of the project cost.

LOCALLY FUNDED AND SALES TAX MEASURE COOPERATIVE AGREEMENT PROJECTS

The funding local agency pays the full cost of the controller assembly. If the State is administering the construction contract, the controllers will be provided as Department Furnished Material paid for by the local agency as part of the project costs.

PRIVATELY FUNDED HIGHWAY IMPROVEMENT AGREEMENT PROJECTS

Caltrans provides the controller assembly as Department Furnished Materials paid for by the permittee as part of the project cost.

ENCROACHMENT PERMIT WITHOUT AN AGREEMENT

When an agreement for the project does not exist and construction is authorized only under an encroachment permit, the private party permittee or permitted local agency contractor shall pay the costs for the controller assembly including the related field work and inspection. These costs are collected from the permittee or contractor as a Department Furnished Material fee and added to the deposit collected for other estimated inspection field work costs.

Additional information on Department Furnished Traffic Controller assemblies is shown in Appendices E and K.

202.5 Registered Engineer's Seal and Signature (Rev. 06/2015)

Caltrans must comply with provisions of the California Business and Professions Code (see Appendix E, Professional Engineers Act). Those provisions require that all final engineering reports and plans bear the signature, registration seal and license number of the California Registered Engineer responsible for preparation of the final report or plans.

A California Registered Engineer shall sign engineering reports or plans for the design and construction of a proposed project, except for Utility construction plans.

The California Public Utilities Commission's jurisdiction does not require for Utility plans to be signed or stamped by a California Registered Engineer. CPUC regulations and requirements supersede all other State Agency requirements.

Environmental documents are not professional engineering documents and therefore do not require preparation by a California Registered Engineer. The environmental document serves as a public disclosure document explaining the effects of the proposed project on the environment.

202.5A Registered Engineer's Seal and Signature on Utility Plans (Rev. 06/2015)

When utility construction plans include or contain civil engineering elements that relate to traffic handling and lane closures; those elements shall bear the signature, registration seal and license number of the California Registered Engineer responsible for the preparation of those elements.

202.6 Materials Testing

Materials testing is performed by the Division of Engineering Services, Office of Materials Engineering and Testing Services (METS) commonly referred to as the Transportation Laboratory.

Testing is required for manufactured or fabricated materials delivered to a work site if the State will own it upon completion of the work. However, in some cases, the Permit Engineer may determine that very small quantities of materials, although not previously tested by the Transportation Laboratory, are acceptable for installation when they are delivered with a Certificate of Compliance.

The Transportation Laboratory contacts the District Encroachment Permits Office to verify materials when materials inspection is requested by the permittee and the Transportation Laboratory does not receive a "Notice of Materials to be used" (CEM-3101). If District contact is unsuccessful, the Transportation Laboratory may verify materials using permit documents and plans before performing inspection and release.

In all cases, a completed "Report of Inspection of Materials" (form TL-0029) is transmitted from the Transportation Laboratory to the District Encroachment Permits Office. Contact the Transportation Laboratory in your area to verify hours of inspection.

Procedures for materials testing are described in Table 2.6.

Table 2.6
Procedures for Materials Testing

These procedures are followed by Caltrans for testing materials used in work authorized within State highway rights–of-way:

1. Permit Engineers and reviewing units evaluating applications must determine if fabricated materials require inspection by Caltrans' Transportation Laboratory. The Transportation Laboratory unit is required to inspect all electrical components of signals, State-owned lighting, metal poles, mast arms, foundation bolts, and signs. A complete list of items is found at:

   http://www.dot.ca.gov/hq/esc/Translab/OSM/smb.htm

2. Include this statement in the text of the permit: "Your attention is directed to Section 6 of the State Standard Specifications, reference to Engineer in the State Standard Specifications shall include State Representative."

3. Send one permit copy (including plans and special provisions) to the Transportation Laboratory in Sacramento when inspection is required.

4. When the "Notice of Materials to be used" (form CEM-3101) is received from the permittee, the State representative should review, sign, date, and forward the form to the District Encroachment Permits Office. (Enter the permit number in the space for "Contract Number" on the form.)

5. District Encroachment Permits Office then makes copies for their files and transmits form CEM-3101 to the Transportation Laboratory.

6. When the CEM-3101 form is received, the Transportation Laboratory inspects materials and returns a "Report of Inspection of Materials" (form TL-0029) to the District Encroachment Permits Office for transmittal to the State representative.

7. State representatives must ensure that all material requiring Transportation Laboratory inspection has an inspection release tag, and must refuse installation of untagged materials until proper inspection is completed.

203 PERMIT FORM AND PROVISIONS

A permit will normally be written to allow six months for the work to be completed, unless the District Permit Engineer determines that a longer or shorter time period is required. The District Encroachment Permits Office may extend the time of or modify any permit within the authority granted, utilizing the appropriate Rider Form.

The "Encroachment Permit General Provisions" (TR-0045) apply to all permits **except** Adopt-A-Highway, Consent Letter and Chain Installer Permits. Applicable Special Provisions should be added to cover each particular permit.

Paraphrasing Standard Specifications or General Provisions is prohibited. The preferred method for emphasizing certain items is to direct a permittee to specific items, specifications or provisions, and to state alterations as an amendment. (For example, "Section XXX.X of the Standard Specifications is amended to read . . . .")

For Adopt-A-Highway Permits, the "Adopt-A-Highway Permit Special Provisions" (TR-0156) shall be included in their entirety without modification by Districts; any deviations shall be approved by headquarters permits. The encroachment permit text should highlight the Special Provision requiring notification of State representatives serving areas affected by project work having significant traffic impacts.

203.1 Encroachment Permit General Provisions

The "Encroachment Permit General Provisions" (TR-0045) apply to all permits **except** Adopt-A-Highway, Consent Letter and Chain Installer Permits. Permittees must fully comply with them (see Appendix K).

203.2 Encroachment Permit Standard Special Provisions

Encroachment Permit Standard Special Provisions specific to each application usually are added to each permit. Permittees must fully comply with them (see Appendix K).

203.3 Liability Insurance

The General Provisions of the encroachment permit hold the permittee responsible for all liability for personal injury and property damages. When required, the applicant shall show evidence of liability insurance before issuance of the permit. Insurance must be provided by a company authorized to transact business in the State of California.

203.3A Encroachments Requiring Liability Insurance

Liability insurance is required for commercial filming (Section 503) and special events (Section 514.7). The HQ Legal Division determines the need and sets the dollar amount of insurance. Districts shall contact HQ Encroachment Permits and present permit requests for referral to HQ Legal.

203.3B General Requirements for Liability Insurance

When liability insurance is required, the applicant shall furnish an endorsement to the policy naming the State, its officers and employees as additional insured. The applicant also shall furnish evidence of the required insurance by supplying a certificate of insurance naming the State of California and its officers and employees as additionally insured.

A professional liability exclusion is standard in insurance policies. This exclusion provides Caltrans and the State with adequate protection against foreseeable risks as additional insured. An exclusion clause for professional liability that is contained in many insurance policies states:

> "This insurance does not apply to any professional liability claims resulting from the actions, direct or indirect, from the executive or legislative branch(s) of any State or municipal government, law enforcement or police officer, security officer, firefighter, emergency medical personnel or any employee of State or local government, unless specifically endorsed hereon. This exclusion does not apply to the original named Insured."

If a public corporation is self-insured, the permit shall include a clause that states:

"The permittee shall indemnify and save harmless the State of California and all officers and employees thereof connected with the work or activity authorized by this permit, including but not limited to the Director and the Engineer, from all claims, suits or actions of every name, kind, and description, brought forth, or on account of, injuries to or death of any person including but not limited to workmen or participants and the public, or damage to property resulting from the performance of the activity authorized by the permit, except as otherwise provided by statute. The duty of the Permittee to indemnify and save harmless includes the duties to defend as set forth in Section 2778 of the California Civil Code."

"It is the intent of the parties that the permittee will indemnify and hold harmless the State, its officers and employees from any and all claims, suits of actions as set forth above regardless of the existence or degree of fault or negligence on the part of the State, the permittee, the employee or volunteer of any of these, other than in the active negligence of the State, its officers and employees."

Any deviation from the liability insurance requirements must be reviewed by the HQ Legal Division.

Caltrans' policy requires that all of Caltrans' employees, volunteers, and visitors to highway work zones follow safety and work procedures outlined in Caltrans' "Safety Manual", other Caltrans manuals, and specific written instructions. "Volunteers" include people participating in the Adopt-A-Highway program, and "visitors" include people participating in filming and special events.

http://dot.ca.gov/hq/opo/safety/safetymanual_toc.htm

203.3C Claims

Claims against permitted work are classified in two primary categories, and guidance by the Caltrans' Legal Division is necessary in both cases.

1. **Public claims by persons not related to Caltrans**

   Claims made against a permittee or Caltrans for permitted work are referred to the HQ Legal Division immediately. HQ Legal provides direction to Permits for handling inquiries and requests for files.

2. **Caltrans' claims against a permittee**

   Claims by District Encroachment Permits Offices generally are related to incomplete or unacceptable work by permittees, and are either claimed or billed against bonds. HQ Legal staff manages actual legal or court action against permittees.

203.4 Surety Bonds

Surety bonds ensure the faithful performance of a permittee's permit obligations. Letters of credit and property bonds are not acceptable forms of bonding.

Generally a cash deposit is not an acceptable form of bonding except for non-Public Works encroachments without the likelihood for latent defects (e.g., landscaping, driveways, monitoring wells, etc.). The cash deposit with a copy of the “Standard Encroachment Permit Application” (form TR-0100) should be forwarded to the District Cashier for deposit in the State Highway Account. In accordance with Government Code Section 13144, refunds exceeding $10,000 require approval by the California Department of Finance (See section 201.3)

Bonds should be calculated as accurately as possible to ensure that the estimated costs of projects in the State highway rights–of-way are covered at a minimum of 50% for performance bonds and 100% for payment bonds (Standard Specifications-Section 3-1.05 “Contract Bonds”). Public Works encroachments costing $5000.00 or more should be bonded. Non-Public Works encroachments may be bonded as determined by the District Permit Engineer.

A performance bond ensures completion of permitted work in compliance with plans, specifications, and permit conditions. Section 338 of the California Code of Civil Procedure limits the bringing of an action against a contractor to three (3) years after the discovery of a defect. In addition, Section 337.15 limits the total time to take action to recover damages for latent defects from contractors, developers or sureties to ten (10) years after the "substantial completion" of a development or improvement.

If a permittee is delinquent in payment of permit fees, the HQ Division of Accounting will attempt to collect from the permittee's bonding company (Section 201.2C, Billing and Overdue Accounts).

A payment bond ensures payment by a contractor to its own labor, subcontractors, and material suppliers.

Bonding requirements are outlined in Table 2.7. Bonding is not required of a local public entity (city, county, public corporation, or political subdivision) that is authorized by law to establish or maintain any works or facilities in, under, or over any public highway and is not normally required of a public utility (California Streets and Highway Code, Sections 678 and 679). However, should local public entities fail to comply with the terms of a previous permit or to pay fees when due, Caltrans may require performance bonding on their next permit.

Bonds for local public entities are limited to $20,000.00 for failure to perform. Under this punitive action, contractors performing the work for any local public entity may be required to post a 100% payment bond and a 50% performance bond of the value of work within the right of way prior to the issuance of their Double Permit “DP”, naming the State as sole obligee.

Regardless of the bonding situation, the local public entity permittee shall obtain final construction acceptance and approval from Caltrans before the local public entity gives final construction approval to its contractor (General Provision, Item 9).

Table 2.7
Guidelines for Bonds

Use these guidelines when working with bonds for authorized work within State highway rights–of-way:

1. The obligee is the entity receiving benefit from the bonds supplied.

2. The obligor is the entity named as owner or payer of the bonds.

3. The District Encroachment Permits Office shall require bonding as specified in an executed cooperative or highway improvement agreement for Oversight projects (projects over $1,000,000). Agreements are processed by Caltrans' Local Programs unit and copied to the District Encroachment Permits Office for information. Bonds shall name obligee as provided for in the agreement.

4. In the absence of a cooperative agreement, bonding requirements shall be specified in the encroachment permit and/or General Provisions for local public entity projects costing $1,000,000 or less. In such cases, the contractor performing work for local public entities who have complied with terms of previous permits, do not require bonding with the State when they execute bonds in favor of the local public entity for at least 100% of the project (General provisions, Item 24). This provision applies only to contractors working for local public entities. It does not apply to private entity bonding.

5. Bonding requirements shall be specified in the encroachment permit for privately funded projects costing $1,000,000 or less in the absence of a highway improvement agreement. Under the terms of the permit, either the developer or contractor (preferably, the developer) is bonded at 100% for payment and at 50% for performance of the estimated construction costs for work within the State highway rights–of-way. The bond shall name only the State as obligee.

   Performance bonds supplied for privately funded work involving new traffic signal equipment or for work on highway structures shall not be less than $10,000. They are retained until the permittee furnishes accurate as-built plans for permit work.

6. Utilities and individuals, their contractors and tree-trimming companies:

   Utility work or private residential improvements not maintained by Caltrans do not require bonding unless prior experience indicates poor performance by owner or contractor, such that work may not be completed in compliance with permit terms. When bonding is required, bonds should reflect Caltrans' determination of the value for the highway facility that may require repair (roadway, base and surface, sidewalks, lighting, State-maintained landscaping, tree values, etc.). Such determinations should not include equipment owned by others or work outside the State highway rights–of-way. The bond shall name only the State as obligee.

203.5 Cal-OSHA Safety Requirements

If the applicant's proposed work falls within one of the provisions of Section 6500 of the Labor Code, the permittee must have a Cal-OSHA permit before starting permitted work.

Section 6500 deals with trenches, excavations, structures, falsework, scaffolding, and demolition and reads as follows:

> "6500. For those employments or places of employment that by their nature involve a substantial risk of injury, the division shall require the issuance of a permit prior to the initiation

of any practices, work, method, operation or process of employment. The permit requirement of this section is limited to employment or places of employment that are any of the following:

a. Construction of trenches or excavations that are five feet or deeper and into which a person is required to descend.

b. The construction of any building, structure, falsework, or scaffolding more than three stories high or the equivalent height.

c. The demolition of any building, structure, falsework, or scaffold more than three stories high or the equivalent height.

d. The underground use of diesel engines in work in mines and tunnels."

All Permit Engineers should follow section 6500 strictly. Section 6509 states "any person, or agent or officer thereof; who violates this chapter is guilty of a misdemeanor."

Therefore, the face of each encroachment permit must indicate if a Department of Safety and Health (DOSH) permit is required and the DOSH permit number (if available).

The following agencies and activities are exempt from the requirement to obtain DOSH permits (Construction Safety Orders):

- Government bodies (but not their contractors).
- Public utilities subject to the jurisdiction of the CPUC (but not their contractors).
- Emergency repair work to underground facilities.
- Excavation or trenches where no person will descend.

Caltrans' employees, volunteers, and visitors to highway work zones shall follow safety procedures described in Caltrans' "Safety Manual", other Caltrans' manuals, and written procedures and instructions designed for specific work.

204 DENYING PERMIT APPLICATIONS

A permit is not issued to an applicant when either the safety of the applicant or traveling public, the structural integrity, or operational capability of the State highway maybe subject to impairment or endangerment.

The District Director (or designated representative) signs routine letters of denial, and may ask headquarters to deny unusual applications. Reasons for denial shall be detailed in writing to the applicant.

Encroachment permits **SHALL** be denied for:

- Projects that adversely affect the safety, capacity, or integrity of the State highway.
- An encroachment that is an integral structural portion of a building (above or below the surface). This includes roof eaves, new bay windows, and cantilevered upper floors.
- Bungee jumping from State structures, (**except** when approved for a filming permit).
- Gathering vegetable matter, except for research or education.
- Longitudinal encroachments, except for public utility and franchise facilities.
- Storage tanks, loading platforms, private truck scales.
- Temporary political signs (California Business and Professional Code 5405.3).
- Charging parking fees on a State Highway.
- Encroachments specifically prohibited elsewhere in this manual.

Encroachment permits **MAY** be denied when:

- The applicant has not complied with the provisions of prior permits.
- The applicant is delinquent with payment on prior permits.
- The project does not have concurrence by a local agency.
- The environmental effects are significant and cannot be mitigated or mitigation is unfeasible.
- A proposed development plan includes an emergency or other access to freeways.

Except as otherwise provided for public agencies and franchise holders, encroachment permits are revocable on 5 days notice (California Streets and Highway Code, Section 673). All such notices shall be signed by the District Director or a designated representative. A letter is used to revoke and cancel permits.

Caltrans has no statutory authority to allow private use of State highway rights–of-way without compensation. To do so would constitute a gift of public funds under Article 16 of the California Constitution. Consequently, permit applications for grading, excavating, removing materials, or placing an embankment not related to a highway improvement are considered individually. Requests for these types of encroachments are exceptions and require approval from the Division of Design, Chief. Permit applications are acceptable if all the following items are satisfied:

1. Caltrans is compensated for removal of material or use of the State highway rights–of-way.
2. No safety hazard is created.
3. No additional maintenance is created.

4. No additional liability is assumed by the State.
5. No transportation use restriction is created.
6. No unwanted easement or other permanent rights-of-way encumbrance is created.
7. Will not create a permanent property right detrimental to our future use or expansion.

These items apply to all State highways and require approvals from Caltrans' District review units.

204.1 Denial for Time Limit Considerations

A permit application may be denied when additional information is needed but not furnished within the specified time limit. Examples are:

- Information required by the applicant to prepare an adequate environmental document.
- Information necessary to prepare a supplemental environmental impact report in compliance with Public Resources Code Section 21166.
- Substantial evidence for Caltrans' approval of specific engineering details.
- When Caltrans is conducting environmental studies in the area of the proposed work.

Denial of an encroachment permit for lack of information does not affect the applicant's right to reapply for a permit or to appeal a denial.

204.2 Appeals

During the course of the encroachment permit process, the applicant may not agree with permit requirements that the District supports. If the applicant requests an exception, the District may confer with the appropriate headquarters contact. Procedures to obtain exceptions to design standards, policies and practices, are mentioned in Sections 301 through 303. For the submission of appeals by applicants of District, Headquarters or FHWA decisions, refer to Section 304.

205 APPROVING AND ISSUING PERMITS

The primary encroachment permit for private development work is issued to the developer/property-owner and not issued to a public corporation, so that the applicable fees are paid. When the encroachment is to be maintained later by a public corporation or utility company, a second permit is required of the public corporation or utility-company to own and maintain.

205.1 Permits Approved by Districts

Permits are issued by the District without concurrence from HQ except for those listed in Section 205.2.

Districts may authorize Maintenance Area Superintendents to issue permits (i.e. chain installer permits) and/or "Consent Letter" (form TR-0131) for 1 day litter removal, salvage operations, gathering of donated landscape materials, vegetation control, removal of minor forest products, etc. Superintendents must not exceed this specified authority, and any appropriate fees shall be collected. Approval by the Deputy District Director-Maintenance is required for Consent Letters covering multiple dates (maximum of 3 consecutive calendar days)

205.1A Issuing the Permit Package

Permits are issued after all reviews are returned, all conditions imposed by the lead and responsible agencies have been met, and the application is deemed complete.

The permit is written when the proposed encroachment is compatible with the primary uses and safety of the State highway system and the State's investment in the highway facility is protected.

The Encroachment Permit is a legal document and should include appropriate addenda. When packaged for issuance, the contents of the "Permit Package" may consist of the following:

1. “Notice to Owner” (form RW 13-4) (State ordered Utility Relocation, see Section 604).
2. “Encroachment Permit” (form TR-0120).
3. “Notice of Completion” (postcard) (form TR-0128) --permittee completes form.
4. “Encroachment Permit General Provisions” (TR-0045) --each permit copy.
5. Standard Special Provisions--each permit copy.
6. Copy of the applicant’s completed “Standard Encroachment Permit Application” (form TR-0100)—each permit copy.
7. Copy of Cooperative Agreement--each permit copy.
8. Copy of liability insurance policy--(Commercial Filming or Special Events).
9. Copy of letter on acceptance of maintenance and liability by city or county--each permit copy.
10. “Certification by Contractor” (form TR-0113) --permittee completes form.
11. Copy of “Payment Bond” (form TR-0018) --each permit copy.
12. Copy of “Performance Bond” (form TR-0001) --each permit copy.
13. “Notice of Materials to be Used” (form CEM-3101) --permittee completes form.
14. Approved plan set--(with "Encroachment Permit Dept." stamp).
15. Approved city/county Standard Plans (attachment to # 14).
16. “Progress Billing/Permit Closure” (form TR-0129) --inspector completes form.
17. As-Built Plans Submittal Route Slip used for locally advertised structure projects (completed by permittee --see Appendix K).
18. Storm water requirements.
19. “Certification of Compliance with Americans with Disabilities Act” (form TR-0405).

205.2 <u>Permits Requiring Headquarters Approval</u>

These permit applications require prior approval by the appropriate headquarters office, as indicated in parentheses:

- New public road connections to declared freeways that have not been previously approved by Caltrans’ Division of Design and California Transportation Commission (CTC).
- Longitudinal encroachments on controlled access highways (Division of Design).

- Modifications to existing bridges, new bridges, and underground structures [Division of Design, Structures Maintenance, and Structures Office of Oversight Projects (OSFP)]. See Appendix K for additional structure types requiring headquarters permit approval.
- Railroad grade crossings (Division of Design).
- Nonstandard retaining wall, nonstandard noise attenuation facilities (including soundwalls on retaining walls) and earth retaining systems on State highway rights–of-way (Headquarters Planning and Design Coordinator, Structures Maintenance, and Structures OSFP).
- Overhead sign structures, slope paving under bridges (including any paving or concrete channel lining around bridge columns), pump plants and storage boxes, transit stations, toll plazas, and seal slabs/boat sections (Division of Design, Structures Maintenance, and Structures OSFP).
- Airspace development (Right of Way).
- Deviations from the "Adopt-A-Highway Permit Special Provisions" (TR-0156) (Office of Encroachment Permits).
- Exceptions to mandatory Caltrans' design standards, policies, and practices on permits for all projects (see Section 301).
- First-time events or activities held on freeways, expressways, and toll bridges (Traffic Ops.).
- Longitudinal installation of any privately owned non-utility facility in any State highway (Division of Design).

205.3 Federal Highway Administration (FHWA) Approval

The Headquarters Division of Design obtains approval from FHWA for encroachment permit applications listed in Table 2.8. A copy of the Headquarters Division of Design's approval is submitted to the District Permit Engineer and placed on file before issuing a permit. Installations not in conformance with 23 CFR 645, Subpart B (Appendix C) or Caltrans' utility accommodation policy (AASHTO's "Guide for Accommodating Utilities Within Freeway Right of Way," Appendix A) require FHWA approval.

Table 2.8
Projects Requiring Approval by FHWA

The following applications for proposed work that is located on federal-aid highway systems (freeways and some conventional highways) shall receive prior concurrence from FHWA:

1. Installation of any longitudinal privately owned (not under CPUC regulations) pipelines or other types of utility-like facilities.

2. Placing utilities longitudinally within the median area of all freeways.

205.4 Amendments to Permits (Riders)

Applicants requesting to amend their permit application or approved encroachment permit must comply with Caltrans' requirements and pay additional fees as required. Any new fees and/or estimated inspection costs shall be collected prior to the issuance of the rider.

The District may issue an "Encroachment Permit Rider" (form TR-0122) if the permittee wants to modify the authorized work or cannot complete the authorized work by the date specified in the permit. Riders are not used to change the Caltrans' inspector; a letter to the permittee is sufficient, with a copy to the permit file.

Verification of storm water and all other applicable requirements shall be made prior to issuance of the rider. The rider may not be extended beyond the date of termination of the permit activity when permit applicant is operating under the US EPA's small construction Rainfall Erosivity Waiver (REW). A Notice of Intent (NOI) and Waste Discharge Identification (WDID) number are required as a condition of time extensions for permit riders operating under the US EPA's REW.

A maximum of two time extension riders may be issued. Each extension shall be for a maximum of 90 calendar days. Longer extension periods may be granted on a case by case basis at the discretion of the District Permit Engineer.

The rider form must be Simplex numbered and include a cross-reference to the original permit.

206 PERMIT INSPECTION AND ENFORCEMENT

Each District is responsible for competent and adequate inspection of permitted work. Permit inspectors are assigned as required, sometimes other Caltrans' units, utility companies, local agencies, or private Engineers hired by the permittee may be asked to perform inspection. If inspection is to be done by any of the above listed, the inspector must be approved by the District Permit Engineer before commencement of work.

The District Permit Engineer shall furnish a copy of all approved encroachment permits involving structure work to Structure Construction, Area Bridge Construction Engineer (BCE). The Structure Construction Area BCE shall assign an oversight structure representative to ensure that the permittee abides by the provisions of the encroachment permit. This review includes the permits issued to allow field investigations during the planning and design phase as well as permits issued to allow construction to commence.

Permittees must ensure that their projects meet Caltrans' National Pollution Discharge Elimination System (NPDES) Permit requirements as well as the Construction General Permit (CGP) requirements (when applicable). For Caltrans' NPDES Permit and CGP requirements see Section 406.

206.A Citing of Permit Violations

The inspector shall document any violation(s) of permit conditions, general and/or special provisions in the "Encroachment Permit Report (Diary)" (form TR-0130).

Two scenarios can exist:

1. The permittee is a Utility Company and the contractor/representative is working under their permit.
2. The permittee (Local Entity or Developer) has the Primary permit and the contractor/representative is working under a Double Permit "DP".

The State's Representative/Inspector shall provide a formal notification to both, the permittee and their representative that a violation or violations have occurred, by providing a copy of the recorded violation(s) to both via mail or in person.

Upon notification of a "second violation," the State's Representative/Inspector shall notify the permittee and their contractor/representative that should a "third violation" occur, that their permit(s) will be suspended or revoked.

Upon accumulation of the "third violation" of the conditions of the permit, the State's Representative/Inspector shall notify the permittee and their contractor/representative verbally and in writing that all work in the State highway rights–of-way shall cease immediately.

Caltrans has developed a protocol to report incidents of noncompliance with storm water regulations. The District NPDES Storm Water coordinator has been designated as the single focal point person to make noncompliance reports to the Regional Water Quality Control Board (RWQCB) Executive Officer. The Legally Responsible Person or the designated Responsible Person by the local entity is the person responsible for the implementation of a quality control program to ensure the notifications of discharges from encroachment permit sites regulated by the State General Permit for Storm water discharges associated with construction activities.

Discharges that violate or threaten to violate prohibitions, limitations and conditions of the Caltrans NPDES Permit, and endanger health and the environment will require immediate notification to the RWQCB no later than 24 hours after discovery of the incident.

Other reporting provisions of the Caltrans NPDES Permit may require notification to the RWQCB within 5 working days, or 48 hours, or 30 days after discovery of the incident for discharges associated with construction activities. For specific guidance on reporting of noncompliance of construction activities see Section 9.4 Noncompliance Reporting Plan of the Caltrans' current Storm Water Management Plan available at:

http://www.dot.ca.gov/hq/env/stormwater/

The District Permit Engineer determines either to suspend or revoke the permit(s) depending upon the severity of the violations or as allowed by statute. Bonds, inspectors, and/or private full time inspectors not affiliated with the permittee(s) (but paid for by the permittee) may be required.

206.B Suspension of Permits

Permits for Local Entities, Franchise Holders and Utility Companies are granted by statute, and cannot be revoked by the District.

The District Permit Engineer places the permittee on probation for a period up to six months. The permittee is informed that no work will be allowed to resume, until the District can be assured that all conditions of the permit can be met.

When a permittee is placed on probation, the District Permit Engineer may elect to suspend all permits (annuals) that bear the name of the permittee. Meaning, the permittee will be required to submit an application for every instance and location separately, for the duration of probation.

If the District cannot resolve the issues of the violations, and contacts headquarters in regards to this permittee, headquarters may suspend all permits in that permittee's name statewide.

The District Permit Engineer shall notify the Maintenance Area Managers of the permittee's suspension. Maintenance Supervisors shall ensure that any encroachment work on State highway rights-of-way is covered by an encroachment permit, and that any violations are posted and reported immediately to the Area Regional Maintenance Superintendent.

206.C Revocation of Permits

Any permit other than permits issued to a Local Entity, a Franchise Holder or a Utility Company can be revoked upon 5 days notice in accordance with California Streets and Highway Code, Section 673 and General Provision #2 (TR-0045).

When a permittee (Private Property Owner) is placed on probation, and again violates permit conditions, the District Permit Engineer may elect to revoke their permit(s) and have their encroachment or facility removed from State highway rights–of-way.

206.1 Encroachment Permit Report (Diary)

Inspectors shall compile and complete the "Encroachment Permit Report (Diary)" (form TR-0130) for each permit where they have performed inspection. Inspectors shall record their time to the nearest half-hour (0.5) and indicate inspection dates on the Encroachment Permit Report (diary) forms. A single form is used for multiple inspections, with inspection time totaled and noted in the space provided on the form. Encroachment Permit Reports are submitted to the District Encroachment Permits Office for processing. All time shown on the Encroachment Permit Report form must agree with the "Progress Billing/Permit Closure" (form TR-0129) signed and dated by the District Permit Engineer, an authorized representative or the District Oversight Resident Engineer (RE) when applicable and the inspector's time sheet to the inspection Project Code.

Sometimes a routine parade, banner, or other minor encroachment does not involve inspection. In such cases, the inspector notes on the "Progress Billing/Permit Closure" (form TR-0129) the contacts made and time associated with the permit.

Inspectors should record the following information on the Encroachment Permit Report regarding work performed under an annual utility encroachment permit:

- Permit number
- Location of work (county, route, and post mile)
- Date and time of proposed work
- Type of work performed
- Name of caller and telephone number
- Company work order

A "Progress Billing/Permit Closure" (form TR-0129) is used to record all inspection costs, and is used in closing out a permit file. It is signed and dated by the District Permit Engineer, an authorized representative or the District Oversight Resident Engineer (RE) when applicable then submitted to the HQ Division of Accounting for billing purposes. Inspectors shall keep accurate records of their time on the Encroachment Permit Report (diaries) to assist future adjustments of the Fee Schedule.

With AX (Actual Hour) Permits, the District Encroachment Permits Office should submit the "Progress Billing/Permit Closure" (form TR-0129) signed and dated by the District Permit Engineer or the District Oversight Resident Engineer (RE) when applicable to the HQ Division of Accounting on a monthly or quarterly basis for billing purposes.

206.2 Responsibilities of Permittee

After the permit is issued, the permittee's responsibilities to Caltrans are summarized as follows:

1. Notify the State's representative at least 48 hours before beginning work. When structure related work is involved, notice is also given to the Structure Construction Area Construction Manager two (2) weeks before beginning work.
2. Perform the work according to the permit, approved project plans, and any special provisions.
3. Request approval for changes or time extensions.
4. Notify the State's representative upon completion of the permitted work.
5. Furnish the State with as-built plans when required.
6. Pay all costs associated with permitted activity.

206.2A As-Built Plans and Other Completion Records

The Encroachment Permit General Provisions require submittal of as-built plans (updated original project plan sheets showing changes made during construction) by the permittee when specified in the permit. Utility permittees are required by the California Public Utilities Commission (C.P.U.C) to keep and maintain their own records.

Upon completion of permit work, the permittee also furnishes to the District details of the locations of hidden encroachments so that information may be retained for Caltrans' future reference. If the permit includes any capital improvement work (whether a Capital Outlay Program or a Permit Program) involving structure related facilities, then submittals of structure as-builts and other

structure completion records are required as detailed in Structure Work Special Provision (see Appendix K).

Additionally, utility or private entity permittees, working on these projects, shall submit accurate, reproducible as-built plans and any other required completion records to Caltrans for approval before bonds are released. Local agency permittees failing to provide complete, accurate, reproducible, signed and approved completion records to Caltrans for permit work shall be cause for the State to require performance bonds on future permits. Future permitted work is subject to a bond requirement until the completion records of said previously permitted work is submitted satisfactorily (California Streets and Highways Code, Section 678).

As-built plans should conform to requirements stated in Caltrans' "Plans Preparation Manual", "Construction Manual", and "Structures OSFP Information and Procedures Guide". As-built plans must be stamped, signed, and dated as follows:

As-Built plans for Roadway

Geometric and Above Ground Features

_____ _____

State's Representative Date

Permit inspectors verify that all as-built plan sheets have been submitted (including Log of Test Boring plan sheets) and their accuracy. Acceptable as-built plans require the inspector's signature. The originals are sent for microfilming in sets of 500 pages as detailed in the "Permits Plan Sets Users Guide" (Appendix F). Table 2.9 indicates the number of copies of microfilmed as-built plans that must be distributed to various units of Caltrans. Additional information is available in the "Permits Plan Sets Users Guide."

Table 2.9
Distribution of Copies of As-Built Plans

Additional copies of microfilmed as-built plans are to be distributed to the functional units listed below.

Type of Permit Work	Number of Copies of As-Built Plans	Caltrans' Functional Unit
Electrical	1	Headquarters Electrical Maintenance
Electrical	1	District Electrical Maintenance

Permits involving structures or roadway construction (capital improvements—whether Capital Outlay Program or Permit Program) require as-built plans be stamped, signed, and dated. The stamp or the decal shall be similar in size and format to the one shown below:

AS BUILT
CORRECTIONS BY: _____
CONTRACT NO.: _____
DATE: _____

Instructions for making as-built corrections to the as-advertised plan tracings shall be in accordance with Caltrans' Structures' "OSFP Information & Procedures Guide," in the Section titled As-Built Plans, and "Bridge Design Details," Section 1-21 As-Built Plan Corrections.

Each "Progress Billing/Permit Closure" (form TR-0129) is to be signed and dated by the District Permit Engineer, an authorized representative or the District Oversight Resident Engineer (RE) when applicable. The completion notice check box will not be marked until the field work is completed and all as-builts and other completion records have either been checked "y" (yes), received, or "N/A" (not applicable).

When the permit involves structure work, Caltrans' Oversight Structure Representative shall notify either the District Oversight RE or the District Permit Engineer when the final structure completion records (except as-builts) have been received and are satisfactory. Similarly, the Caltrans' Structure OSFP Liaison Engineer will notify the District Permit Engineer, an authorized representative or the Oversight RE upon receipt of satisfactory structure as-built plans.

206.2B Notice of Completion (form TR-0128)

General Provisions require the permittee to notify the State's representative when work is completed. Notification is normally provided with a "Notice of Completion" (form TR-0128) (postcard), a letter, or verbally. Caltrans should conduct a final inspection of the project site within one week of notification. If the permittee has not complied with all terms and conditions of the permit, the Permit Engineer informs the permittee of the discrepancies and requests corrections. On complex projects, corrections should be detailed in writing.

The District notifies the bond company to perform necessary work if the permittee fails to comply with this request. If the bond company fails to do the work, the District may perform the work and recover expenses from the bond.

206.3 Unauthorized Encroachments

Caltrans' Division of Maintenance is responsible for the abatement of unauthorized encroachments. District permits staff may assist Maintenance in the abatement activities when appropriate, and when authorized by the District Permit Engineer.

When an unauthorized encroachment is found, Maintenance shall contact the responsible party and explain Caltrans' encroachment permit requirements. Unless the unauthorized encroachment is work that would normally be permitted, it shall be removed. Caltrans can recover all administrative costs associated with unauthorized encroachments, in addition to statutory penalties.

Unauthorized encroachments that shall be immediately removed from any State highway are listed as follows:

- Anything that obstructs full use of the highway or creates a potential safety problem.
- Rubbish.
- Advertising signs (exceptions see: 501.3A, 501.7, 501.7A&B, 501.8, 501.13A, 508.4, 517.7).
- Temporary political signs (see California Business and Professions Code, section 5405.3).

If the unauthorized encroachment is work for which we would normally process for consideration of approval, and issuance of a permit, then the work must be discontinued until an encroachment permit application is submitted, reviewed, approved and a permit is issued.

An exception may be given, by the permit inspector for that geographical location, or by the Area Maintenance Superintendent with verbal concurrence of the permit inspector to allow a minor encroachment to remain before a permit is issued if all the following conditions are met:

1. A permit application has been submitted and received;
2. It conforms to the Caltrans' policies;
3. It does not adversely affect traffic safety;
4. It does not affect the condition or appearance of the highway;
5. The operator agrees to follow the recommendations of the Maintenance superintendent or State representative;
6. It does not involve tree removal or trimming.

Maintenance may request law enforcement assistance when the person placing an unauthorized encroachment refuses the order/demand to discontinue or remove the unauthorized encroachment. It is imperative to keep good documentation, and photos should be taken and kept with the records.

The law enforcement agency should be informed what section of the California Streets and Highways Code is being violated. Maintenance should take the steps recommended in Table 2.10 to enable support of its action by the Caltrans' Legal Division.

Table 2.10
Procedures for Resolving Unauthorized Encroachments

These steps should be taken by Maintenance to resolve unauthorized encroachments:

1. Immediately remove rubbish, advertising signs, temporary political signs, and unauthorized encroachments that obstruct the highway or that can create potential safety problems.

2. Immediately give the operator a "Notice of Encroachment" (Appendix D).

3. If the problem is not resolved in a reasonable time, give a second and final violation notice by either:

   - Certified mail with return receipt and posting a copy for 5 days at the site; or
   - Hand delivery to the owner or lessee.

4. Submit a full written report to the District Maintenance Superintendent and a copy to the District Permit Engineer.

   If the unauthorized encroachment consists of sediment discharge requiring immediate maintenance of the State facility, also submit a copy of the report and photos to the District NPDES Coordinator.

5. Do not take removal action without specific instructions by the District Maintenance Superintendent unless the encroachment adversely affects traffic safety.

6. Contact Headquarters or a District Legal Office to consider what action should be taken to remove the encroachment, collect costs, enjoin further action, etc.

206.4 Retention of Permit Records

The terms and conditions of Caltrans' encroachment permits are valid as long as the encroachment remains in, under, or over the State highway, unless revoked for cause.

Complete copies of permit files shall be microfilmed and the record shall be retained indefinitely. Districts should follow the "Permit File & Plan Set Guidelines" (Appendix F) when preparing permit files and the plan sets for microfilming.

206.4A Closing out permit files

When a permitted encroachment is completed, the file should be closed out and prepped for microfilming. The permit file should be reviewed to ensure that all documentation has been completed and is in the file.

The following is a tentative list of what a permit file may contain at the time of closing:

1. The original application with the Simplex stamp
2. An approved plan set or drawing, date stamped
3. Copy of the issued Application Package
   a. "Encroachment Permit" (form TR-0120)
   b. General Provisions (TR-0045)
   c. Permit Special Provisions
   d. Additional attachments

4. Permit Office Engineer's Encroachment Permit Reports (diaries)
5. District Reviewer's Encroachment Permit Application Review Sheets
6. District Reviewer's Comment Sheets
7. Memos and/or Notes
8. "Notice of Materials to be used" (form CEM-3101)
9. Approved Local Entity Standards (if required)
10. A Performance Bond (if required)
11. A Payment Bond (if required)
12. A Cooperative Agreement (if required)
13. A Letter of Responsibility from a Local Entity (if required)
14. Inspector's Encroachment Permit Reports (diaries)
15. "Progress Billing/Permit Closure" (form TR-0129)
16. "Certification of Compliance with Americans with Disabilities Act" (form TR-0405, one for design and separate form for post construction certification).

"Progress Billing/Permit Closure" (form TR-0129) is to be signed and dated by the District Permit Engineer, an authorized representative or the District Oversight Resident Engineer (RE) when applicable.

In some instances a permit file may contain notes on post-its, these should be collected and taped to an 8-1/2" x 11" piece of paper.

207 TIME REPORTING AND CHARGING INSTRUCTIONS (Rev 01/17)

Caltrans' staff shall accurately document and report all time expended on permit related activities (review, inspection, etc.).

Caltrans' staff uses an online time reporting system (Staff Central) to record labor costs as hours worked.

207.1 Project Code, Phase, Reporting and Sub Object Codes (Rev 01/17)

Caltrans has established reporting procedures to categorize and track activities on time sheets. These include the use of project codes, phases, reporting, and sub object codes for all time reporting entries.

Time expended on oversight projects shall be charged directly to the oversight project's Project Code, phase, reporting, and sub object codes.

For additional information and proper time charging procedures, please see the TOMIS Work Activities and Charging Instructions (WACI) available on the Traffic Operations Intranet site.

207.2 Description of Project Codes

Project Codes are used as follows:

0000001126 ***Overhead - General***

Use these primary Sub Object Codes:

002 - Supervision.
003 - Staff Meetings.
049 - Safety Meetings.
059 - Training – Student.
058 - Training – Instructor.
099 – Administrative Time Off.

Identifies the time expended on appropriate overhead charges such as all staff and safety meetings, mandated training, general office work activities, supervisory duties, and budget development.

- Supervision – Individual Development Plans, conduct interviews, EEO, human resource management.
- Training - including mandatory (EEO, supervisory, etc.), one-time and recurring.
- Safety and staff meetings.
- Professional – licensure or development activities.

0000001153 ***Customer Service (non-storm water related)***

Use this primary Sub Object Code:

003 - Customer Service.
059 - Training – Student.

Identifies the time expended that cannot be charged to a particular encroachment permit. These activities occur prior to the acceptance and assignment of a Simplex number to a completed application.

- Responding to public inquiries (those without an active permit file).
- Preliminary meetings, communication with prospective applicants.
- Review applications for completeness including required documents, signatures, fees, etc.
- Return incomplete applications to applicants with instructions for resubmittal.
- Attend encroachment permit related training classes.

0000001157 ***Review (non-storm water related)***

Use this primary Sub Object Code:

037—Work related to encroachment permit review.

Identifies the time expended on the review and processing of encroachment permit submittals. These activities occur after the acceptance and assignment of a Simplex number to a completed application. Time charged to this Project Code by reviewers must be documented in the "Encroachment Permit Application Review" (form TR-0110) and charged to the applicant.

- Enter application information into the Encroachment Permits Management System (EPMS).
- Preliminary engineering review and site inspection.
- Plan review and approval, writing permit provisions, etc., performed by Permit staff and all other supporting units.
- Related activities in reviewing, monitoring and issuing encroachment permits, including meetings and communications with applicants.

0000001155 ***Inspection (non-storm water related)***

Use this primary Sub Object Code:

037—Work related to encroachment permit inspection.

Identifies the time expended on the inspection and control of actual encroachment work performed by a permittee under an issued encroachment permit. This time is charged to the

applicant. It also identifies work done by the Division of Engineering Services, Office of Materials Engineering and Testing Services (METS). Time expended on the inspection of storm water related elements should be charged to storm water inspection.

- Providing liaison, monitoring, and review at project site required to ensure the uniform application of all specifications and standards including meetings and telephone calls related to individual permits.
- Communication with the TMC regarding lane closure activities to support the job.
- Inspector's office time for documentation [diaries, "Progress Billing/Permit Closure" (form TR-0129), etc.], maintaining files, correspondence and entries into EPMS.
- Permit closure documentation work is charged to 0000001156.

0000001160 ***Storm Water Review***

Use this primary Sub Object Code:

003— Customer Service.
037—Work related to encroachment permit storm water review.
059— Training – Student.
058— Training – Instructor.

Identifies the time expended on the review and processing of storm water components of encroachment permit submittals. Time charged to this Project Code by reviewers must be documented in the "Encroachment Permit Application Review" (form TR-0110) and charged to applicant. Time expended on activities (e.g. meetings, communications) prior to an application receiving a Simplex stamp should use reporting Code 7CUSTSERV. For travel time related to storm water components expended during the review phase, use reporting code 7TRAVEL.

- Preliminary engineering review, site inspection, completion of the "Encroachment Permit Storm Water Assessment Form" (TR-0132).
- Verification of applicant's active Waste Discharge Identification (WDID) number and Waste Discharge Requirements (WDRs) for construction storm water and dewatering permit coverage.
- Review of Storm Water Pollution Prevention Plan (SWPPP), Water Pollution Control Plan (WPCP) and BMP plan documents.
- Verification of certification and signatures by Legally Responsible Person (LRP), Qualified SWPPP Developer (QSD), Qualified SWPPP Practitioner (QSP), and Contractor (for DP).
- Plan review and approval, performed by Permit staff and all other supporting units.
- Related activities in reviewing, monitoring and issuing encroachment permits, including meetings and communications with applicants, NPDES and Storm Water Coordinators (SWC).

0000001159 ***Storm Water Inspection***

Use this primary Sub Object Code:

037—Work related to encroachment permit storm water inspection.
059— Training – Student.
058— Training – Instructor.

Identifies the time expended on the inspection and control of storm water components of actual encroachment work performed by a permittee under an issued encroachment permit. This time is charged to the applicant. For travel time related to storm water components expended during the inspection phase, use reporting code 7TRAVEL.

- Providing liaison, monitoring, and review at project site required to ensure the uniform application of all specifications and standards including meetings and telephone calls related to individual permits.
- Inspector's office time for documentation, diaries, maintaining files, correspondence and entries into EPMS.
- Meet with permittee to explain storm water process and requirements
- Review Water Pollution Control Manager's (WPCM) training and active certification as QSD and / or QSP.
- Evaluate if approved SWPPP/WPCP document or BMP plan is maintained in the field and if it is kept up-to-date.
- Report illicit connections and unauthorized discharges to Maintenance Area Manager and NPDES Coordinator.

0000001154 ***Field Work – State Forces***

Use this primary Sub Object Code:

037—Work related to encroachment permit field work.

Identifies the time expended on field work that may include the use of materials and equipment, the placement of traffic control, markings, striping, and/or signing related to installed permitted facilities. This Project Code shall be used only by other functional branches (Maintenance, Traffic Management, etc.).

0000001152 ***Reconsideration and Appeals***

Use this primary Sub Object Code:

037 - Work related to dispute resolution and appeals.

Identifies the time expended on processing reconsideration requests from applicants and processing appeals to the Department's Director.

- Receive appeal from applicant.
- Evaluate appeal.
- Notify applicant of ruling and provide instructions.
- Respond to inquiries for denied permits.

0000001158 ***Unauthorized Encroachments***

Use this primary Sub Object Code:

037—Work related to unauthorized encroachments.

Identifies time expended by permits staff to research and provide support to Maintenance staff regarding unauthorized encroachments. Maintenance staff should charge their time to their respective project code.

- Process inquiries regarding encroachment status.
- Investigate physical location of encroachment and document findings.
- Research to determine if permit has been issued.
- Notify District and Maintenance staff of findings.
- Follow up communications on unauthorized encroachments with encroacher, property owner and/or other functional units.

0000001161 ***Film Permits***

Use this primary Sub Object Code:

037—Work related to Filming permits.

Identifies the time expended on film permit applications received from the California Film Commission (CFC).

- Time expended on meetings with prospective applicants, responding to public inquiries and travel.
- Entering application information into the Encroachment Permits Management System (EPMS).
- Related activities in reviewing, monitoring and issuing filming permits, including meetings and communications with applicants.
- Inspection of filming operations.
- Inspector's office time for documentation [diaries, "Progress Billing/Permit Closure" (form TR-0129), etc.], maintaining files, correspondence and entries into EPMS.

0000001156 ***Permit Closure***

Use this primary Sub Object Code:

003—Permit Closure.

Identifies the time expended on finalizing the accounting for the permittee and the archival of the permit file.

- Inspector's office time for close out documentation (e.g. diaries, "Progress Billing/Permit Closure" (form TR-0129), etc.).
- Process final billing for permittee.
- Receive and review monthly collections report.
- Any activities to follow-up with permittee regarding unpaid bills.
- Time expended on filing paper copies of plans and permit documentation.
- Send final permit documents to vendor for microfilming.

0000001163 ***Travel for Permit Related Activities (non-storm water related)***

Use this primary Sub Object Code:

037—Travel time.

Identifies the time expended on travel to and from the field site.

* Travel time to the field site to conduct permit reviews and inspections.
* Travel time to support potential permit applications (those without a Simplex number) shall be charged to Project Code 0000001153 - Customer Service.
*

207.3 Reporting Codes (Rev 01/17)

Reporting codes are mandatory for all time reporting entries.

For additional reporting codes information, please see the TOMIS Work Activities and Charging Instructions (WACI) available on the Traffic Operations Intranet site.

207.4 Specific Instructions for Inspection Staff

"Progress Billing/Permit Closure" (form TR-0129) is to be signed and dated by the District Permit Engineer or the District Oversight Resident Engineer (RE) when applicable.

Inspectors must accurately report their time to fully recover costs associated with specific permits.

They must charge the appropriate Project Code, reporting, sub object codes and complete diaries, “Progress Billing/Permit Closure” (form TR-0129), and permit review sheets in a timely manner.

District Permit Engineers must ensure that inspection staff time is reported correctly and that diaries agree with the hours shown on “Progress Billing/Permit Closure” (form TR-0129). Only in “Set Fee” (SF) permits may the “actual hours” shown on “Progress Billing/Permit Closure” (form TR-0129) and diaries vary from hours charged to permittees.

The hours charged on “Actual Fee” (AX) permits must agree with hours on diaries and “Progress Billing/Permit Closure” (form TR-0129). Field inspectors on a monthly or quarterly basis must submit “Progress Billing/Permit Closure” (form TR-0129), especially for annual or biannual permits.