State of California
DEPARTMENT OF TRANSPORTATION

California State Transportation Agency

Memorandum

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To: DISTRICT DIRECTORS
DEPUTY DISTRICT DIRECTORS
Maintenance and Operations
Division of Design

Date: March 15, 2016

File:

From: TIMOTHY CRAGGS
Chief
Division of Design

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Chief
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Subject: **ERUVIN WITHIN STATE RIGHT-OF-WAY**

An eruv is a ceremonial demarcation of an area within which the Orthodox Hasidim Jewish community may engage in certain activities on the Sabbath that would otherwise be prohibited. The physical demarcation of an area is provided by a contiguous boundary consisting of fences, walls, poles, and lines.

Effective on the date of this memorandum, eruvin may be installed within Caltrans' right-of-way on conventional highways, expressways, and non-interstate freeways with an approved encroachment exception. Caltrans is delegated approval authority by the Federal Highway Administration (FHWA) Stewardship and Oversight Agreement, and this memorandum further delegates specific approval to the District Director.

The District Director is delegated approval authority for eruv installations that comply with the attached guidelines and conditions on conventional highways, expressways, and non-interstate freeways. For eruv proposals that do not meet all attached guidelines and conditions, the District Director must submit proposals to the HQ Division of Design (DOD), Office of Project Support for consideration.

For eruv proposals on interstates, the FHWA retains approval authority. The District Director must submit proposals associated with interstates to DOD, Office of Project Support to compile and forward to the FHWA for consideration.

Once eruv encroachment permits are approved, the District Permit Engineer will submit a copy of the permit file, the approved encroachment exception, and if applicable, the FHWA approval, to DOD, Office of Project Support and to Division of Traffic Operations, Office of Encroachment Permits and Engineering Support within two weeks of permit issuance.

For questions regarding this memorandum or the attachment, please contact Linda Fong, Chief, Office of Project Support, DOD at (916) 653-8559, or by e-mail at Linda.Fong@dot.ca.gov; or

Yin-Ping Li, Chief, Office of Encroachment Permits and Engineering Support, Division of Traffic Operations at (916) 654-5548, or by e-mail at Yin-Ping.Li@dot.ca.gov.

Attachment
Eruv Encroachment Exception Guidelines and Conditions of Approval-2015

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Eruv Encroachment Exception Guidelines and Conditions of Approval

The encroachment permit process is used to obtain authorization to place eruvs within the California Department of Transportation (Caltrans) right-of-way. Approval of eruv proposals installed on conventional highways, expressways, and non-interstate freeways that meet the guidance and conditions of approval listed below, require the approval of the Caltrans District Director. Eruv proposals for installation on interstate freeways require the approval of the Federal Highway Administration (FHWA). For proposals on interstates, the District Director will submit documentation to Headquarters Division of Design (DOD) to compile and forward on to FHWA for processing, consideration, and final approval if deemed appropriate. For eruv proposals that do not meet all the guidance and conditions of approval listed below, DOD will retain review and approval authority. If deemed appropriate, DOD will approve these eruv requests or will submit them to FHWA for consideration on interstate freeways.

Copies of all approved eruv installations and supporting documentation (permit files, justifications, and approved encroachment exceptions) shall be sent to DOD, Office of Project Support and to the Division of Traffic Operations, Office of Encroachment Permits and Engineering Support within two weeks of permit issuance, for information and record purposes.

Eruv Encroachment Exception Submittal Requirements:

1. A description of alternatives must be considered, and justification of why alternatives outside the State right-of-way are not feasible.
2. An appropriate environmental document.
3. Evidence of support of the proposed eruv from all cities and counties affected by the eruv must be part of submittal documents. A resolution, letter of approval, or an approved permit from the appropriate local jurisdiction(s) can be accepted.
4. Eruv poles and monofilament line are allowed in the right-of-way. More elaborate eruv infrastructure can be considered an attractive nuisance and should only be allowed after careful consideration and documentation of risk assessments.
5. Eruv poles must be designed and installed to be structurally adequate.
6. Eruv poles must be installed outside the clear recovery zone as defined in Highway Design Manual Index 309.1(2) or placed behind existing guardrail. New guardrail installations for the protection of eruv poles will not be allowed.
7. Eruv poles may be installed adjacent to, but outside, the State's right-of-way fence.
8. Eruv poles must be independently freestanding and cannot be strapped or supported by the State's fence post or any other State structure (bridge, soundwall, retaining wall, rail, sign post, light standard, etc.).
9. Only monofilament lines can be attached to the State's right-of-way fence or fence post.
10. The eruv facility should not cross any State highway lanes, shoulders, or ramps, except across the entrances or termini of ramps where pedestrian activities are allowed.
11. The eruv facility must be designed, located and maintained so as not to interfere with the safe operation and maintenance of the impacted transportation facility.
12. A California licensed civil engineer or structural engineer, as required, must seal the project plans submitted with the permit application.

13. The permittee shall obtain, and maintain primary insurance of $3,000,000 per occurrence and aggregate, and a $10,000,000 excess/umbrella policy. There may be instances where this amount may need to be increased due to unique circumstances which may be present. In those instances, any variance from these amounts must go through HQ Permits and ultimately reviewed by Legal.

The following Conditions of Eruv Encroachment Exception Approval must be included as part of the encroachment permit documents and met in entirety by the permittee:

1. Authorization of the eruv shall not set any precedents.
2. An encroachment permit is required to install the eruv and an annual maintenance permit shall be required to maintain the eruv.
3. Permittee will not be allowed to enter State right-of-way to construct the eruv until an additional insured endorsement identifying Caltrans as an additional insured which is satisfactory to Caltrans for Permittee's commercial general liability policy or equivalent with a minimum $3 million per occurrence/$3 million aggregate and for its excess or umbrella policy with a minimum $10 million in coverage has been provided. Caltrans does not accept as evidence of insurance an ACORD form. Other combinations amounting to a total coverage of $13 million will be acceptable to Caltrans if the general liability policy or equivalent meets the minimum coverage identified above. Additionally, permittee shall provide evidence of insurance to the District Encroachment Permits Office prior to expiration of the existing term of insurance and for each subsequent term of insurance that follows.
4. Permittee may place eruv poles and monofilament line in the right-of-way. More elaborate eruv infrastructure that has been assessed to have minimal risk as an attractive nuisance, must include a removal strategy should maintenance or other issues become apparent.
5. Only monofilament lines can be attached to the State's right-of-way fence or fence post.
6. The eruv facility must be designed, located and maintained so as not to interfere with the safe operation and maintenance of the impacted transportation facility.
7. No symbols, letters, signs, or markings of any kind shall be permitted.
8. Permittee is responsible for maintaining all installed poles and monofilament line as well as removal of these facilities when no longer needed or allowed. Pole maintenance includes removing posters, graffiti, etc. such that the poles remain aesthetically pleasing.
9. Access to inspect and maintain the eruv must be from outside the access controlled State right-of-way. At no time will inspection or maintenance be allowed from the roadway lanes or shoulders. Any required closure of lanes, ramps or shoulders shall be through appropriate permit application and at the expense of the permittee.
10. Eruv maintenance is limited to the poles, monofilament line, and the attachment of the monofilament line to the State right-of-way fence or fence post only.
11. The permittee must submit a response plan on the procedure to replace damaged or downed lines and/or poles in advance of any work on the State right-of-way.
12. Installation of poles and lines, or any other eruv related activities, must comply with all applicable environmental laws and regulations.
13. Encroachment permits do not provide permanent rights and may be revoked for cause.