

December 12, 2002

**INSTRUCTIONAL BULLETIN NO. 2002-7**

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

**EFFECTIVE DATE:** January 2, 2003

**SUPERCEDES:** Engineering Directive Memorandum PC-28

**RE:** None

**GENERAL**

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

Areas determined necessary due to NPDES for the construction and maintenance of erosion control items during construction may require additional right of way. All NPDES areas to be maintained after completion of a project are to be enclosed by permanent right of way. Permanent right of way should also be used around all sediment control basins (temporary and permanent); but, all other temporary NPDES facilities will be covered by permission. If permission cannot be obtained, then the area will be acquired as right of way. In both instances, the area will be cleared and grubbed and seeded during construction.

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

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

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

**SETTING THE LOCATION OF RIGHT OF WAY LINES**

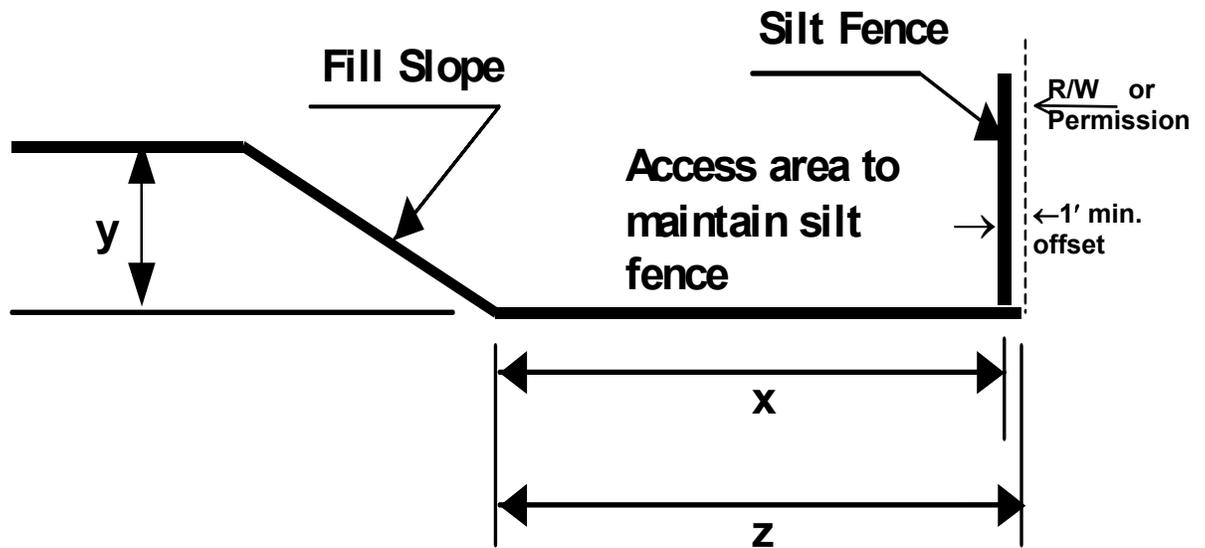
Silt fence should be placed at the bottom of all fill slopes in order to minimize the erosion of sediment off the project site. Silt fences should be installed beyond the toe of the fill slope as prescribed in the following chart. All silt fences are expected to be clean periodically as sediment is collected. The anticipated reach of the contractor's equipment is 15 feet.

**INSTRUCTIONAL BULLETIN NO. 2002-7**

December 12, 2002

Page 2

Height of Fill (y) in feet	Fill Slope	Minimum Silt Fence Offset from Toe of Slope (x) in feet	Minimum Right of Way Offset from Toe of Slope (z) in feet
<6	2:1	2	3
	4:1		
	6:1		
6-10	2:1	12	13
	4:1	3	4
	6:1		
>10	2:1	12	13
	4:1	4	5
	6:1		



An area between the toe of slope and the silt fence is needed to properly maintain the silt fence. Large equipment and trucks may use the area in front of the silt fence to access and remove any sediment collected by the silt fence or a nearby silt basin. The area between the NPDES line and the toe of the slope is expected to be cleared and grubbed during construction and maintained with temporary seeding. When this additional area in front of the silt fence cannot be obtained, the maintenance of the silt fence will be handled as best as possible during construction. Right of way needed to meet NPDES requirements may be by permission or permanent right of way or a combination of both.

Right of way limits in cut slope areas should be determined during the Design Field Review where interceptor ditches or other erosion control items are deemed necessary.

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

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

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

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

**CONSTRUCTION LINES**

Additional areas to be cleared and grubbed for NPDES will be shown on the plans when outside the construction lines. Special lines denoting the additional area needed to accommodate items of work to meet the NPDES requirements should be placed on the plans only when necessary to go beyond the cut/fill slope line (construction line). The NPDES line will have offset distances from the construction centerline placed on the plans turned at right angles from the centerline at each station. This special line can be found in the custom line style palette and is shown here:

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

Approved: \_\_\_\_\_  
E.S. Eargle  
Road Design Engineer

ESE:afg

cc:

- Mark C. Lester, Prog. Dev. West
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File:PC/ESE