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February 12, 1996

INSTRUCTIONAL BULLETIN NO. 96-2

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

EFFECTIVE DATE: February 12, 1996

SUPERSEDES: Instructional Bulletin No. 95-20 dated December 27, 1995

RE: Engineering Directive Memorandum PC-28 (2nd Revision) dated February 1, 1996 --
"Guidelines for Adjusting Temporary and Permanent Right of Way with Regard to the National Pollutant Discharge Elimination System (NPDES)"

The referenced Engineering Directive Memorandum PC-28 (2nd Revision) is attached for your use. The memorandum offers guidance in setting right of way with regard to NPDES features.

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

Permanent right of way should be set primarily to provide the area needed for the project's permanent features that will be permanently maintained by the Department with the exception of the temporary basin noted above.

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Road Design Engineer