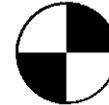




Highway Division Maintenance and Operations Operational Notice



NUMBER MG 14-02	SUPERSEDES New	EFFECTIVE DATE May 20, 2008	CANCELLATION DATE Until Further Notice
SUBJECT Charging for Department services provided in support of utility or miscellaneous permits		ISSUING BODY Maintenance and Operations Engineer <i>Hub M. Johnson</i>	

PURPOSE:

To provide clarification on when it would be appropriate for the Department to charge for services provided in support of utility or miscellaneous permits.

BACKGROUND:

Oregon Administrative Rule 734-055-0020 allows the Department to collect "reasonable and necessary expenses" from the permit holder for costs incurred by the Department in connection with the permitted activity.

A Supreme Court ruling filed October 5, 2006, and input from Department of Justice found that ODOT could no longer charge a fee for utility and miscellaneous permits. Based on this information, assessment of fees was suspended; however it remained unclear what costs, if any, incurred by the Department could be recovered from the permit holder. In the past Districts often required a deposit or established an outside billing account to charge a permit holder for Department services such as plan review, hydrology reports, and inspection of permitted work. In discussions with the Department of Justice parameters were developed to provide clarification and statewide consistency for what would be appropriate costs to recover under Division 55 rules.

GUIDELINES:

While the applicant is responsible for costs associated with the permitted activity, the permit itself is issued at no cost to the applicant including any costs to administer the permit. Activities such as plan review, permit review, hydrology reports, inspection of work, are part of administering the permit and are to be paid by the Department. The "reasonable and necessary expenses" allowed by Division 55 rules include those costs incurred by the Department beyond issuance and administration of the permit. For example, corrective work necessary to restore the highway to its pre-activity condition and that is left undone by the applicant.

As a condition of the permit, the Department may require the applicant to provide specific documentation or do specific work. The applicant can not be required to hire Department forces to do work the applicant is otherwise responsible for under the permit. The applicant may accomplish the work themselves, hire a contractor, or request services of the Department.

If Department forces are available, requested services may be provided to the applicant. Those arrangements are to be handled separately from the permit with the cost for Department services billed to the applicant according to the Order to Render Service (form 734-3189).

In the event that the Department is the only entity that can or should do a specific task, it would then be the Department's financial responsibility and should not be a requirement of the applicant under the permit.

The recovery of Department costs may be addressed differently when the work is done under an agreement (aka Intergovernmental Agreement, Cooperative Improvement Agreement, etc.). For example, an agreement with a local agency for a traffic signal may allow for the Department's costs to turn on a traffic signal or to adjust signal timing to be paid by the local agency or other party to the agreement. Work negotiated as part of an agreement is separate and distinct from the terms of a utility or miscellaneous permit.