

CALIFORNIA DEPARTMENT OF TRANSPORTATION ENCROACHMENT PERMIT

OVERVIEW

The California Department of Transportation (Caltrans) is responsible for planning, designing, constructing, operating, and maintaining State-owned roadways. Caltrans issues encroachment permits for projects that affect areas within the rights-of-way (ROWs) of State-owned roadways. The permits are issued to ensure that proposed encroachments are compatible with the primary uses of the State highway system, ensure the safety of both the permittee and the highway user, and protect the State's investment in the highway facility.

Figures 21a and 21b illustrate the Caltrans encroachment permit process.

WHO NEEDS TO COMPLY?

An encroachment permit is required for any project that would include an area within, under, or over a State highway ROW. Examples of actions that may require a permit are opening or excavating a State roadway for any purpose; placing, changing, or renewing an encroachment; planting or tampering with vegetation growing along any State roadway; constructing and maintaining road approaches or connections to the ROW on any State roadway; and conducting any activity that affects the use of the roadway.

CALFED actions that could result in the need for a Caltrans encroachment permit include those that involve:

- constructing a water conveyance structure within a State roadway ROW,
- completing projects under bridges operated by the State that require storage of construction equipment within a State roadway ROW,
- surveying within a State roadway ROW, and
- constructing a recreational trail that crosses a State roadway ROW.

HOW LONG DOES THE APPROVAL PROCESS TAKE?

If the proposed encroachment is minor and will have no significant effect on the environment or is exempt from the requirements of CEQA, a Caltrans permit engineer reviews the application and has 60 days after receiving a complete application to issue or deny the permit. The time needed to complete the permitting process for a major encroachment varies with the complexity of the project; the process can take as long as 4 months.

WHAT INFORMATION DOES THE APPLICANT NEED TO PROVIDE?

Applicants must complete Caltrans' standard encroachment permit application form (TR-0100 in Appendix D), which requests information including:

- the location of proposed work or encroachment by county, the State highway route and postmile, and the distance to the nearest major road intersection;
- a complete description and detailed plans of the proposed work and existing facilities within the State highway ROW, including an estimate of the cost of work within the ROW;
- the estimated dates of the beginning and end of the proposed work;
- the width, depth, length, and type of surface to be cut for excavation, if applicable; and
- the type and diameter of pipes to be laid within a State highway ROW, if applicable, and the pressure and product in the pipes.

All measurements must be provided in metric units (dual units, English and metric, are acceptable).

If the project is subject to CEQA review by another agency, a copy of the approved CEQA documentation must be attached. If the project is not subject to another agency's CEQA review, the applicant must complete the environmental significance checklist portion of the permit application form.

Caltrans may require additional information, such as:

- a hazardous waste investigation and assessment or clearance;
- traffic data (existing and projected);
- development hydrology maps and calculations (existing and postdevelopment);
- hydraulic calculations;
- development and highway grading plans;
- development and highway drainage plans; and
- plans, profiles, cross sections, and contour-grading plans of the proposed work in the State highway ROW prepared in conformance with Caltrans standards.

If the encroachment would involve work within the ROW with a cost of more than \$1 million, or if the encroachment would require permanent access or maintenance in freeway or expressway ROWs, additional detailed information, cooperative agreements, and plans are required.

WHAT IS THE FEE?

Caltrans' fee varies according to the amount of effort required to review and inspect the proposed encroachment permit work. The fee is estimated at the time the application is submitted, and a deposit is required of all applicants except public agencies and utilities before the application is processed. Public agencies are exempt from fees, and public utilities are billed for fees at a later date.

Caltrans also may require the applicant to submit a Caltrans Encroachment Permit Performance Bond. If a bond is required, Caltrans will determine the amount. Caltrans normally does not require a bond from public agencies or public utilities.

WHAT DOES THE APPLICATION AND EVALUATION PROCESS ENTAIL?

The steps for obtaining a Caltrans Encroachment Permit are as follows:

1. The applicant submits a completed application to the appropriate Caltrans district office (see [Figure 22](#)). An application is not considered complete until the applicant has complied with all other statutory requirements, including those of CEQA.

If the project involves the installation of underground facilities where a State highway is on, or crosses, a levee under the jurisdiction of the California State Reclamation Board (Reclamation Board), the applicant must furnish proof of a Reclamation Board permit (see [“Reclamation Board Encroachment Permit”](#) above).

2. The district permit engineer, or an assigned representative, determines that the application is complete.
3. The staff of the permits office sends the application to other Caltrans units (e.g., Traffic, Design, and Environmental) or external agencies such as the Federal Highway Administration for review, if necessary. Other Caltrans units may have to review applications to ensure coordination with subsequent maintenance operations and planned future development by Caltrans or others. The reviews are to be completed within 10 working days after the day of distribution. If the reviews are not completed within 10 working days, the permits office staff must contact the reviewing unit to determine when the reviews will be completed. If the reviews are likely to exceed a period of 60 days, the permit engineer must obtain the concurrence of the applicant to extend the review time.

A project report or Permit Engineering Evaluation Report (PEER), which documents an engineering analysis of proposed work, is required for every action that has a

permanent traffic impact and for work that affects the operation of a State highway. This requirement is unlikely to apply to CALFED projects; however, the permit office must verify that the responsible reviewing units have considered the need for an appropriate report.

4. The permits office has established a 45-day working period for application review to ensure that the 60-day statutory limitation is met. Therefore, after an application is accepted as complete, a decision should be made by the 45th day to issue or deny the application. If the review and approval of other Caltrans units are required and the project is complex, more than 60 days may be needed to complete this process.

Caltrans evaluates the permit application to determine how the encroachment may affect:

- the safety of motorists, pedestrians, and workers;
- the design, construction, operation, maintenance, or integrity of the highway system;
- future and ongoing highway construction, repair, and maintenance contracts;
- the aesthetics of the highway corridor;
- the environment; and
- existing drainage.

PERMIT DENIAL. If a completed permit application is denied, the district sends the applicant a letter detailing the reasons for denial and the applicant's right to appeal to the district director. The letter must be sent before the 60th day following the submittal of the application.

Denial by a permit engineer in the district may be appealed to the district director. If the district director denies issuance of a permit, the applicant may appeal to the director of transportation for a final decision.

ISSUANCE OF A PERMIT. Permits are issued after all reviews are returned, all conditions imposed by the lead and responsible agencies have been met, and any additional information requested by Caltrans has been provided. A 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. Inspection of the site by a district engineer sometimes is necessary to ensure that the proposed work is not detrimental to the State highway or the safety of highway users. The terms and conditions of encroachment permits are binding on the applicant.

An encroachment that involves work within the ROW with a cost of more than \$1 million requires a highway improvement agreement or cooperative agreement in addition to an encroachment permit.

A proposed encroachment that requires permanent access to or maintenance within freeway or expressway ROWs is subject to special restrictions. Permits are seldom granted for these encroachments unless special circumstances require them. CALFED projects are unlikely to involve such encroachments.

CALTRANS INACTION WITHIN THE 60-DAY TIME LIMIT. If the district office fails to issue a permit or deny the application in writing within 60 days after the completed application is submitted, the applicant can legally begin work. In such cases, Caltrans will inspect and control the work as usual based upon the permit application; by signing an application, the applicant agrees to perform the work according to Caltrans' rules and regulations and subject to Caltrans' inspection and approval.

DOES THIS PROCESS TRIGGER THE NEED FOR COMPLIANCE WITH OTHER REGULATIONS?

CEQA compliance must be completed before Caltrans may issue permits for major encroachments and approve some minor encroachments.

WHAT ARE THE OPPORTUNITIES FOR FACILITATING COMPLIANCE WITH THIS PROCESS?

The following are recommended steps to simplify and streamline the Caltrans permitting process for CALFED actions.

- **Design the project to avoid areas under Caltrans jurisdiction.** An encroachment permit will not be required if the project is designed to avoid transportation facilities under State jurisdiction.
- **If encroachment in a State highway ROW is necessary, design the project to minimize encroachment.** Designing the project so that any encroachment will be temporary or minor will simplify the permit review and approval process. Examples of minimizing encroachment include tunneling or using a “jack and bore” method to minimize direct traffic conflicts.
- **Coordinate with the local Caltrans district during the planning and design phases of the project.** Early coordination between the project proponent and Caltrans will help Caltrans and the applicant identify compliance needs, commitments, and mitigation options and resolve issues before the permit is processed.

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