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ENGINEERING BULLETIN

Engineering Administrator
Engineering and Construction

Process for Obtaining a Waiver of Right-Of-Way (ROW) Activities

The most recent update to the **FHWA/Department Stewardship and Oversight Implementation Manual** (SOIM) changed the approval authority on obtaining a waiver for Rights-of-Way activities from FHWA to the Department with the exception of projects on the Interstate System. For reference purposes this change is in Table 26: **ROW Process Summary** on page 67 of the SOIM under “Make public interest finding on whether State may proceed with bid advertisement even though ROW acquisition/relocation activities are not complete for some parcels (23 CFR 635.309(c)).” The SOIM is available at the link below:

https://www.ct.gov/dot/lib/dot/documents/denviro/CT_Stewardship_Implementation_Manual.pdf

The intent of this bulletin is to explain the internal process for obtaining a waiver of ROW activities.

A “waiver” of ROW activities is the memorandum(s) necessary to provide documentation, justification and reasoning as to why the Department is advancing project activities, such as obligation, advertising, etc., prior to completion of ROW acquisition and relocation activities. This documentation also serves as the “public interest finding” referenced in the SOIM. Typically, the Division of Rights of Way will provide documentation as to the overall status of rights of way activities, including outstanding ROW acquisitions/relocations, during final design on any given project, so the Engineering Project Manager/Principal can make an informed decision on whether or not a waiver of ROW activities is necessary. If it appears that all the necessary ROW will not be acquired by the Design Completion Date (DCD) it is the Engineering Project Manager’s role, within their respective chain of command, to consider all the appropriate factors in the decision to request a waiver of ROW activities. These factors may include but not be limited to the safety of the motoring public, maintaining a single construction season for a project, not delaying construction to the following season, procurement of materials, obligation of funds, etc. It is essential that the Project Manager coordinate with the appropriate Division of Rights of Way Project Coordinator and request a memo for the anticipated completion dates of ROW activities to ensure the necessary ROW activities can be completed in a reasonable time

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frame. Once the decision to seek a waiver has been made by the Office of Engineering, the Division of Rights of Way will draft a conditional ROW certificate stating chronologically the anticipated completion of ROW activities.

Obtaining a waiver of ROW activities for a project located on the interstate requires FHWA approval before the Engineering Project Manager seeks the Chief Engineer's approval. Non-interstate projects do not require FHWA approval even if they are a Project of Division Interest (PODI). The Division of Rights of Way will submit a letter requesting FHWA approval. Once this letter is received, the Engineering Project Manager will submit the appropriate waiver memorandum, including the request for a waiver of ROW activities, to the Engineering Administrator for the Chief Engineer's approval as outlined below.

The Engineering Project Manager will draft the appropriate waiver memorandum (waiver to advertise, obligate, etc.) and submit it through their chain of command for the Engineering Administrator's signature and Chief Engineer's approval. Because the waiver of ROW activities memorandum also serves as the public interest finding, the Engineering Project Manager must adequately explain the reasons a waiver of ROW activities is justified in the document. The ROW completion dates must also be reflected in the waiver of ROW activities memorandum. Upon approval by the Chief Engineer, the signed memorandum will become part of the project file and be included in the documentation submitted to the Department's Contract Development unit.