

June 23, 2016

Comments Concerning this Presentation:

A PDF copy of my June 15, 2016 presentation is being placed on the MAS website for the Boards of Supervisors use and consideration. Boards may wish to adopt part or all of the example utility permit if none is currently being used or you wish to revise your current permit.

We are considering asking a county to request an Attorney General's opinion as to the legality of certain topics within this presentation. I encourage the Boards to stay in touch with the MAS staff as this issue further develops.

Brooks Miller

MAS Annual Meeting June 15, 2016, Biloxi Coliseum

Outline for Presentation of Utilities on County Road Right of Way

1:30 to 2:15 P.M.

(1) Purpose of Presentation....Utility permitting on County Roads and the Impact of SB2755 on County road maintenance operations. The new 811 Legislation for 2016 and beyond.

(2) Summary Outline of SB2755

(3) MS Constitution showing Boards authority (also briefly show History years of MS Constitutions), Code Sec 11-27-43 (Utility's right to place on road) and Code Sec 11-27-47 (Boards right to regulate)

(4) More Detailed Look at SB2755...Emphasis on Changes and Sections Added

(5) Selected Sections of Existing Code 77-13-1 to 25, (77-13-7 requires payment for repair of damages).

(6) SOP II-2-8...Briefly Discuss definitions and especially Insurance requirements, including the County as additional insured (does Sec 11-27-43 relieve the county of liability?), Surety and Bond requirements.

(7) 2nd Revised Utility Permit _05-26-2016

Questions and Comments.

Summary Outline of SB2755

- (1) Amend Sec 77-13-3 to exempt certain routine maintenance activities on public roads from the laws regulating the excavation of underground utility lines
- (2) Create Sec 77-13-27 to provide for the enforcement of damage prevention and civil penalties
- (3) Create Sec 77-13-29 to create the Underground Facilities Damage Prevention Board and provide for its members
- (4) Create Sec 77-13-31 to prescribe the powers of the Board
- (5) Create Sec 77-13-33 to provide for investigations of complaints of violations
- (6) Create Sec 77-13-35 to create the underground damage prevention fund for deposit of all civil penalties
- (7) Create Sec 77-13-37 to provide the scope of authority in this chapter
- (8) Amend Sec 77-13-7 to clarify the name of Mississippi 811
- (9) Amend Sec 77-13-5 to provide for Design Information Requests and the time period by which an Operator must respond (excavator must inform himself/herself of the presence and location of underground facilities)
- (10) Amend Sec 77-13-9 to provide for Design Information Requests and the time period by which an Operator must respond (owner/operator of underground facilities shall make an investigation and mark approximate location of existing lines and may report through PRIS, the positive response information system operated by Mississippi 811)
- (11) This act shall take effect and be in force from and after July 1, 2016, except for Sec 2 of this act which shall take effect and be in force from and after January 1, 2017.

Miss. Const. Ann. Art. 6, § 170

MISSISSIPPI CODE of 1972

*** Current through HB 1, 2016 1st Extraordinary Session and SB 2808, 2016 Regular Session. ***

THE CONSTITUTION OF THE STATE OF MISSISSIPPI
ARTICLE 6. JUDICIARY

Miss. Const. Ann. Art. 6, § 170 (2016)

§ 170. County districts; board of supervisors

Each county shall be divided into five districts, a resident freeholder of each district shall be selected, in the manner prescribed by law, and the five so chosen shall constitute the board of supervisors of the county, a majority of whom may transact business. The board of supervisors shall have full jurisdiction over roads, ferries, and bridges, to be exercised in accordance with such regulations as the legislature may prescribe, and perform such other duties as may be required by law; provided, however, that the Legislature may have the power to designate certain highways as "state highways," and place such highways under the control and supervision of the State Highway Commission, for construction and maintenance. The clerk of the chancery court shall be the clerk of the board of supervisors.

HISTORY: SOURCES: 1832 art IV § 20 and second amendment; 1869 art VI § 20; Laws, 1924, ch 143.

MISSISSIPPI CODE of 1972

*** Current through HB 1, 2016 1st Extraordinary Session and SB 2808, 2016 Regular Session. ***

TITLE 11. CIVIL PRACTICE AND PROCEDURE
CHAPTER 27. EMINENT DOMAIN
IN GENERAL

Miss. Code Ann. § 11-27-43 (2016)

§ 11-27-43. Erection and maintenance of utility poles and lines; duty of care owed to public

(1) All companies or associations of persons incorporated or organized for the purposes set forth in Section 11-27-41 are authorized and empowered to erect, place and maintain their posts, wires and conductors along and across any of the public highways, streets or waters and along and across all turnpikes, railroads and canals, and also through any of the public lands, and to do such clearing as may be reasonably necessary for the proper protection, operation and maintenance of such facilities, provided in all cases such authorization shall meet the requirements of the National Electrical Safety Code. The same shall be so constructed and placed as not to be dangerous to persons or property; nor interfere with the common use of such roads, streets, or waters; nor with the use of the wires of other wire-using companies; or more than is necessary with the convenience of any landowner.

(2) The duty of care owed to the public by owners and operators of public utility facilities located adjacent to a highway, road, street or bridge in this state is satisfied when:

(a) With respect to state highways, the public utility facilities comply with the provisions of the applicable edition of the National Electrical Safety Code for structure placement relative to roadways.

(b) With respect to roads, streets and bridges that are not part of the state highway system, the public utility facilities located in a public right-of-way comply with the provisions of the applicable edition of the National Electrical Safety Code for structure placement relative to roadways.

(c) With respect to roads, streets and bridges that are not part of the state highway system, the public utility facilities located on private property comply with the provisions of the applicable edition of the National Electrical Safety Code for structure placement relative to roadways.

(d) With respect to structures, appurtenances, equipment or appliances whose placement or installation is not subject to the provisions of the National Electrical Safety Code, the public utility facilities comply with the provisions of the standards in effect when the structure, appurtenance, equipment or appliance is placed, installed or located adjacent to any highway, road, street or bridge in this state, whether or not a part of the state highway system.

(3) (a) The owner of a road, street, highway or bridge, which is not itself the owner or operator of a public utility, owes no duty to the public regarding or relating to the placement or location of public utility facilities within or appurtenant to the right-of-way of the road, street, highway or bridge.

(b) The owner of private property, which is not itself the owner or operator of a public utility, owes no duty to the public regarding or relating to the placement or location of public utility facilities on or appurtenant to the private property.

(4) For the purpose of this section, the term "public utility facilities" means pipes, mains, conduits, cables, wires, towers, poles and other structures, equipment or appliances, whether publicly or privately owned, installed or placed adjacent to any roadway by an owner or operator of a public utility facility.

HISTORY: SOURCES: Codes, 1942, § 2749-22; Laws, 1971, ch. 520, § 22; Laws, 2002, ch. 412, § 1, eff from and after July 1, 2002.

Miss. Code Ann. § 11-27-47

MISSISSIPPI CODE of 1972

*** Current through HB 1, 2016 1st Extraordinary Session and SB 2808, 2016 Regular Session. ***

TITLE 11. CIVIL PRACTICE AND PROCEDURE
CHAPTER 27. EMINENT DOMAIN
IN GENERAL

Miss. Code Ann. § 11-27-47 (2016)

§ 11-27-47. Pipelines

All companies, associations of persons, municipalities, associations of municipalities, public utility districts authorized by and under the laws of the state of Mississippi, or natural gas districts, incorporated or organized for the purpose of building or constructing pipelines and appliances for the conveying and distribution of oil or gas, including carbon dioxide or other gaseous substances for use in connection with secondary or tertiary recovery projects located within the state of Mississippi for the enhanced recovery of liquid or gaseous hydrocarbons, or for the purpose of constructing, maintaining and operating lines for transmitting electricity for lighting, heating and power purposes, or for the purpose of constructing, maintaining and operating lines and appliances, for storing, transmitting and distributing water and for transmitting, treating and disposing of sewage, are hereby empowered to exercise the right of eminent domain in the manner now provided by law, and to build and construct the said pipelines and appliances along or across highways, waters, railroads, canals and public lands, above or below ground, but not in a manner to be dangerous to persons or property, nor to interfere with the common use of such roads, waters, railroads, canals and public lands.

The board of supervisors of any county through which any such line may pass shall have the power to regulate, within its respective limits, the manner in which such lines and appliances shall be constructed and maintained on and above the highways and bridges of the county. All such companies, associations of persons, municipalities, associations of municipalities, public utility districts authorized by and under the laws of the state of Mississippi or natural gas districts shall be responsible in damages for any injury caused by such construction or use thereof.

HISTORY: SOURCES: Codes, 1942, § 2749-24; Laws, 1971, ch. 520, § 24; Laws, 1984, ch 420, § 2, eff from and after passage (approved April 23, 1984).

By: Senator(s) Burton

To: Energy; Appropriations

SENATE BILL NO. 2755
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 77-13-3, MISSISSIPPI CODE OF 1972, TO
2 EXEMPT CERTAIN ROUTINE MAINTENANCE ACTIVITIES ON PUBLICLY
3 MAINTAINED ROADWAYS AND RIGHTS-OF-WAY FROM THE LAWS REGULATING THE
4 EXCAVATION OF UNDERGROUND UTILITY LINES; TO CREATE SECTION
5 77-13-27, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE ENFORCEMENT
6 OF DAMAGE PREVENTION AND CIVIL PENALTIES THEREFOR; TO CREATE
7 SECTION 77-13-29, MISSISSIPPI CODE OF 1972, TO CREATE THE
8 UNDERGROUND FACILITIES DAMAGE PREVENTION BOARD AND TO PROVIDE FOR
9 ITS MEMBERS; TO CREATE SECTION 77-13-31, MISSISSIPPI CODE OF 1972,
10 TO PRESCRIBE THE POWERS OF THE BOARD; TO CREATE SECTION 77-13-33,
11 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR INVESTIGATIONS OF
12 COMPLAINTS OF VIOLATIONS OF THE CHAPTER; TO CREATE SECTION
13 77-13-35 TO CREATE THE UNDERGROUND DAMAGE PREVENTION FUND WHEREIN
14 ALL CIVIL PENALTIES SHALL BE DEPOSITED; TO CREATE SECTION
15 77-13-37, MISSISSIPPI CODE OF 1972, TO PROVIDE THE SCOPE OF
16 AUTHORITY IN THIS CHAPTER; TO AMEND SECTION 77-13-7, MISSISSIPPI
17 CODE OF 1972, TO CLARIFY THE NAME OF MISSISSIPPI 811, INC.; TO
18 AMEND SECTIONS 77-13-5 AND 77-13-9, MISSISSIPPI CODE OF 1972, TO
19 PROVIDE FOR DESIGN INFORMATION REQUESTS AND THE TIME PERIOD BY
20 WHICH AN OPERATOR MUST RESPOND TO THE REQUEST; AND FOR RELATED
21 PURPOSES.

22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

23 SECTION 1. Section 77-13-3, Mississippi Code of 1972, is
24 amended as follows:

25 77-13-3. The words defined in this section shall have the
26 following meanings when found in this chapter:



27 (* * *~~na~~) "Abandoned facility" * * *~~shall~~ means any
28 underground utility line or underground utility facilities no
29 longer used in the conduct of the owner/operator's business and
30 are not intended to be used in the future.

31 (* * *~~pb~~) "Approximate location * * *~~"~~ of underground
32 utility lines or underground facilities" * * *~~shall~~ means
33 information about an operator's underground utility lines or
34 underground facilities which is provided to a person by an
35 operator and must be accurate within eighteen (18) inches measured
36 horizontally from the outside edge of each side of such operator's
37 facility, or a strip of land eighteen (18) inches either side of
38 the operator's field mark, or the marked width of the facility or
39 line plus eighteen (18) inches on each side of the marked width of
40 the facility or line.

41 (c) "Board" means the Underground Facilities Damage
42 Prevention Board, created by Section 77-13-29.

43 (* * *~~rd~~) "Calendar day" * * *~~shall~~ means a
44 twenty-four-hour period.

45 (e) "Commission" means the Mississippi Public Service
46 Commission.

47 (f) "Damage" * * *~~shall~~ means the substantial weakening
48 of structural or lateral support of underground utility lines and
49 underground facilities, penetration or destruction of any
50 protective coating, housing or other protective devices of an
51 underground utility line or underground facility, and the partial



or complete severance of any underground utility line or underground facility, but does not include any operator's abandoned facility.

(g) "Design Information Request" means a notification made to Mississippi 811, Inc., by a person providing professional services and making a request in preparation for bidding, preconstruction engineering, or other advance planning efforts that do not involve excavation. A design information services request may not be used for excavation purposes.

(* * *~~eh~~) "Emergency excavation" * * *~~shall~~ means excavation at times of emergency involving danger to life, health or property or a customer service outage.

(* * *~~ai~~) "Excavate or excavation" * * *~~shall~~ means any operation in which earth, rock or other material or mass of material on or below the ground is moved or otherwise displaced by any means, except: (i) the tilling of the soil less than twenty-four (24) inches in depth for agricultural purposes; or (ii) an operation in which earth, rock or other material or mass of material on or below the ground is moved or otherwise displaced to a depth of less than twelve (12) inches on private property by the property owner without the use of mechanical excavating equipment; or (iii) an operation in which earth, rock or other material or mass of material on or below the ground is moved or otherwise displaced without the use of mechanical excavating equipment to a depth of less than twelve (12) inches on private



77 property by an excavator who is not the property owner, except
78 when such excavation is in a clearly marked underground facility
79 right-of-way; or (iv) routine railroad maintenance activities
80 conducted within the track structure, drainage ditches, or within
81 the railroad right-of-way a distance not to exceed thirty (30)
82 feet from the outside rail of the outermost track or tracks,
83 provided this work is performed by railroad employees or railroad
84 contractors and is carried out with reasonable care so as to
85 protect any underground facilities properly installed in the
86 railroad right-of-way by agreement with the railroad; or (v)
87 routine activities of a cemetery, provided that for any cemetery
88 that begins or expands after July 1, 2015, such activities occur
89 only after initial notice is provided to Mississippi 811, Inc.,
90 and all affected operators have advised that there are no
91 underground facilities within the boundaries of the subject
92 cemetery; or (vi) routine maintenance activities carried out by or
93 for those responsible for publicly maintained roadways and
94 rights-of-way, provided that the activities occur entirely within
95 the public right-of-way and do not penetrate the earth to a depth
96 of more than twelve (12) inches and are carried out with
97 reasonable care so as to protect any underground facilities placed
98 in the right-of-way. Routine maintenance activities shall be more
99 specifically described in the rules and regulations adopted by the
100 board; or (vii) the driving of wooden stakes by use of hand tools
101 which do not penetrate the earth to a depth of not more than six



102 (6) inches. The term "excavate" shall include, but not be limited
103 to, the operations of demolition, blasting, grading, land
104 leveling, trenching, digging, ditching, drilling, augering,
105 tunneling, scraping, cable or pipe plowing, driving, jacking,
106 wrecking, razing, rending, moving or removing any structure or
107 other material or mass of material on or below the ground.

108 (j) "Excavator" * * *~~shall~~ means any person who engages
109 directly in excavation.

110 (k) "Mark" * * *~~shall~~ means the use of stakes, paint or
111 other clearly identifiable materials to show the field location of
112 underground facilities in accordance with the current color code
113 standard of the American Public Works Association, or the
114 uncovering or exposing of underground facilities so that the
115 excavator may readily see the location of same, or the pointing
116 out to the excavator of certain aboveground facilities such as,
117 but not limited to, manhole covers, valve boxes and pipe and cable
118 risers, which indicate the location of underground facilities.

119 (* * *~~il~~) "Mechanical excavating equipment" * * *~~shall~~
120 means all equipment powered by any motor, engine, or hydraulic or
121 pneumatic device used for excavating and shall include, but not be
122 limited to, trenchers, bulldozers, backhoes, power shovels,
123 scrapers, draglines, clam shells, augers, drills, cable and pipe
124 plows and other plowing-in or pulling-in equipment.

125 (m) "Mississippi 811, Inc." * * *~~shall~~ means a
126 nonprofit corporation organized under the laws of the State of



127 Mississippi that provides a service through which a person shall
128 notify the operator(s) of underground facilities of plans to
129 excavate and request marking of facilities.

130 (* * * ~~ln~~) "Mississippi One-Call System,
131 Inc." * * * ~~shall~~ means "Mississippi 811, Inc." Whenever the term
132 "Mississippi One-Call System, Inc." appears in this chapter, the
133 term shall mean "Mississippi 811, Inc."

134 (* * * ~~go~~) "Operator" * * * ~~shall~~ means any person who
135 owns or operates a utility. However, the term "operator" shall
136 not include any railroad or the Mississippi Department of
137 Transportation.

138 (* * * ~~ep~~) "Person" * * * ~~shall~~ means any individual,
139 firm, partnership, association, trustee, receiver, assignee,
140 corporation, entity, limited liability company, utility, joint
141 venture, municipality, state governmental unit, subdivision or
142 instrumentality of the state, or any legal representative thereof.

143 (q) "Pipeline Safety Division" means the Pipeline
144 Safety Division of the Public Service Commission.

145 (* * * ~~er~~) "Positive response information system" or
146 "PRIS" means an automated information system operated and
147 maintained by Mississippi 811, Inc., that allows excavators,
148 locators, facility owners or operators, and other affected parties
149 to enter and/or determine the status of a locate request.

150 (* * * ~~ds~~) "Underground facility" * * * ~~shall~~ means any
151 underground utility lines and other items which shall be buried or



placed below ground or submerged for use in connection with underground utility lines and including, but not be limited to, pipes, sewers, conduits, cables, valves, lines, wires, manholes, vaults, attachments and those portions of poles below the ground.

(* * * et) "Underground utility lines" * * * ~~shall~~ means underground or buried cable, conduit pipes and related facilities for transportation and delivery of electricity, telecommunications (including fiber optics), water, sewage, gas, mixtures of gases, petroleum, petroleum products or hazardous, flammable, toxic or corrosive liquids.

(* * * bu) "Utility" * * * ~~shall~~ means any person who supplies, distributes or transports by means of underground utility lines or underground facilities any of the following materials or services: gas, mixture of gases, petroleum, petroleum products or hazardous, toxic, flammable or corrosive liquids, electricity, telecommunications (including fiber optics), sewage, drainage, water, steam or other substances.

(* * * hy) "Working day" * * * ~~shall~~ means a twenty-four-hour period commencing from the time the locate request is processed or entered into the system by Mississippi 811, Inc., in accordance with this chapter, excluding Saturdays, Sundays and legal holidays.

SECTION 2. The following shall be codified as Section

77-13-27, Mississippi Code of 1972:



176 77-13-27. **Enforcement of damage prevention.** (1) Any
177 person, whether excavator or operator, who violates this chapter,
178 or the rules or regulations promulgated under this chapter, shall
179 be subject to a civil penalty as follows:
180 (a) For a first violation, the violator shall complete
181 a course of training concerning compliance with this chapter as
182 determined by the executive committee;
183 (b) For a second violation occurring within a five-year
184 period, the violator shall complete a course of training
185 concerning compliance with this chapter as determined by the
186 executive committee or pay a civil penalty in an amount set by the
187 executive committee, not to exceed Five Hundred Dollars (\$500.00)
188 per incident, or both;
189 (c) For a third or subsequent violation occurring
190 within a five-year period, the violator shall pay a civil penalty
191 in an amount set by the executive committee, not to exceed Two
192 Thousand Five Hundred Dollars (\$2,500.00) per incident; and
193 (d) Notwithstanding this subsection and subsection (2)
194 of this section, if any violation was the result of gross
195 negligence or willful or wanton misconduct as determined by the
196 executive committee, the executive committee shall require the
197 violator to complete a course of training concerning compliance
198 with this chapter as determined by the executive committee and pay
199 a civil penalty in an amount set by the executive committee, not
200 to exceed Five Thousand Dollars (\$5,000.00) per incident.



(2) Any person who is required to complete a course of training under subsection (1) of this section shall be responsible for paying for the cost of the training. For those instances in which training is ordered, if the person is a firm, partnership, association, corporation, limited liability company, joint venture, department or subdivision of the state or other governmental entity or any other body or organization, the executive committee may require that at least one (1) manager or supervisor thereof attend any such training.

(3) Any excavator who violates this chapter may be required to cease work on any excavation, or not start a proposed excavation, until the excavator complies with this chapter.

SECTION 3. The following shall be codified as Section

77-13-29, Mississippi Code of 1972:

77-13-29. Underground Facilities Damage Prevention Board.

(1) There is created an Underground Facilities Damage Prevention Board for the purpose of enforcing this chapter.

(2) It is the intent of the Legislature that the board and its enforcement activities not be funded by appropriations from the state budget.

(3) The Pipeline Safety Division will provide administrative, investigative and legal support for the board as deemed necessary and approved by the board. The Pipeline Safety Division shall charge to the board the expenses associated with



225 the administration, investigative and legal duties requested by
226 the board.

227 (4) The board shall be composed of sixteen (16) members and
228 all board appointments shall be made on or before July 31, 2016,
229 as follows:

230 (a) The President of Mississippi 811, Inc., or his
231 designee;

232 (b) One (1) representative of the telecommunications
233 industry, appointed by the Governor;

234 (c) One (1) representative of the excavation, utility
235 and/or site construction industry, appointed by the Lieutenant
236 Governor;

237 (d) One (1) representative of the electric power
238 industry investor-owned utilities, appointed by the Governor;

239 (e) One (1) representative of the Electric Power
240 Associations of Mississippi, appointed by the Lieutenant Governor;

241 (f) The Executive Director of the Mississippi
242 Department of Transportation, or his designee;

243 (g) One (1) representative of the cable industry
244 appointed by the Governor;

245 (h) One (1) representative of the Pipeline Safety
246 Division, serving as an ex officio, nonvoting member;

247 (i) One (1) representative of the natural gas or liquid
248 transmission industry, appointed by the Lieutenant Governor;



249 (j) One (1) representative of the natural gas or liquid
250 distribution industry, appointed by the Lieutenant Governor;

251 (k) The Executive Director of the Mississippi
252 Association of Professional Surveyors, Inc., or his designee;

253 (l) The Executive Director of the Mississippi
254 Association of Supervisors, or his designee;

255 (m) The Executive Director of the Mississippi Municipal
256 League, or his designee;

257 (n) The Executive Director of the Mississippi
258 Homebuilders Association, or his designee;

259 (o) The Chief Executive Officer of the Mississippi
260 Rural Water Association, or his designee; and

261 (p) The Executive Director of the American Council of
262 Engineering Companies of Mississippi, or his designee.

263 (5) The initial term of the appointed members provided in
264 paragraphs (b) and (c) of subsection (4) shall end December 31,
265 2017; the initial term of the appointed members provided in
266 paragraphs (d) and (e) of subsection (4) shall end December 31,
267 2019; and the initial term of the representatives provided in
268 paragraphs (g), (i) and (j) of subsection (4) shall end December
269 31, 2021. After the expiration of the initial terms, all
270 appointed members shall serve a term of five (5) years.

271 (6) The Governor shall appoint the initial chairman of the
272 board, and the initial board shall elect other officers as the
273 board deems necessary. The board shall meet and elect a chairman



and other officers every two (2) years thereafter. The staff of
Mississippi 811, Inc., shall serve as staff support for the board.

(7) The board shall meet no less than three (3) times each
year, with a date and time to be set by its chairman upon at least
five (5) business days' notice provided by United States mail,
electronic mail or personal delivery to every board member.

(8) Eight (8) members of the board shall constitute a quorum
and a majority vote of those present and voting at any meeting
shall be necessary to transact business.

(9) The members of the board shall be immune, individually
and jointly, from civil liability for any act or omission done or
made in the performance of their duties while serving as members
of the board, but only in the absence of willful misconduct.

(10) The members of the board shall serve without
compensation.

(11) The board shall elect from its membership an executive
committee, which shall have the exclusive authority for levying
civil penalties and taking action as described in Section
77-13-27. The executive committee shall be composed of the
following five (5) members of the board:

(a) One (1) member appointed from subsection (4)(c) of
this section;

(b) One (1) member from a state agency or local
government;



298 (c) One (1) member appointed from subsection (4) (b),
299 (d), (e), (g) or (o) of this section;

300 (d) One (1) member appointed from subsection (4) (i) or
301 (j) of this section; and

302 (e) One (1) member chosen at large from the board from
303 any paragraph of subsection (4) of this section.

304 (12) A member serving on the executive committee shall be
305 limited to two (2) consecutive one-year terms. No executive
306 committee member may participate in a vote on any matter in which
307 his employer is the alleged violator or has incurred damage to its
308 facilities as a result of the alleged violation.

309 (13) The board and the executive committee may hold meetings
310 and vote by telephone, television, or other electronic means.

311 **SECTION 4. The following shall be codified as Section**
312 **77-13-31, Mississippi Code of 1972:**

313 **77-13-31. Powers of the board.** (1) The board has the power
314 and authority to:

315 (a) Adopt a budget and **promulgate rules and regulations**
316 to carry out the responsibilities of the board and the executive
317 committee under this chapter. The board shall adopt its initial
318 budget and promulgate its initial rules and regulations no later
319 than December 31, 2016.

320 (b) Make and enter into contracts.

321 (2) The board shall:



(a) Through its executive committee, initiate investigations and conduct hearings as required by this section;

(b) Manage the Underground Damage Prevention Fund created by Section 77-13-35;

(c) Assess its annual operating cost to operators in an amount equal to the amount necessary to offset the cost of investigative, administrative and legal services and other costs reasonably necessary to carry out its responsibilities under this chapter. The annual operating costs shall be determined after deducting funds available from other sources, including, but not limited to, federal grants, and such annual operating costs shall be apportioned in a proportional manner based on volume of locate requests, and shall be collected by Mississippi 811, Inc., from the operators; and

(d) Subject to the availability of funding in the Underground Damage Prevention Fund created by Section 77-13-35, contract with appropriate individuals, entities or agencies to conduct training and public awareness for damage prevention.

SECTION 5. The following shall be codified as Section 77-13-33, Mississippi Code of 1972:

77-13-33. (1) The board shall develop and implement a process whereby upon receipt of a complaint of a violation of this chapter, the executive committee shall initiate an investigation of the complaint which may include a request that the Pipeline Safety Division designate an employee of the division who will



investigate the complaint in accordance with this chapter and the rules adopted by the board.

(2) Any investigator acting upon request by the executive committee may issue citations for violations of this chapter in a form and manner established by the board. Any citation shall include a recommendation for the penalty to be assessed and training to be completed under Section 77-13-27.

(3) If the person to whom the citation is issued under subsection (2) of this section does not pay the citation or submit to ordered training, or both as applicable, within thirty (30) days, then the executive committee shall conduct a hearing and issue an order which includes its findings and ordered penalties. The hearing shall be held at the time and place set forth in the citation or in a separate notice of hearing.

(4) A person aggrieved by the executive committee's order may, within sixty (60) days, seek judicial review in the form of an appeal "de novo" in the Chancery Court of the county in which the excavation occurred. If the excavation occurred in more than one (1) county, then the appeal shall be conducted in the chancery court of the county where the greatest amount of excavation referenced in the citation occurred.

(5) The person initiating a complaint of violation under this chapter shall submit to the board all information and documents in its possession related specifically to the alleged violation.



(6) Evidence of findings of fact, civil penalties, or any of the actions or proceedings pursuant to this chapter shall not be admissible in any other civil causes of action. This chapter shall not limit any person's right to pursue any additional civil remedy otherwise allowed by law.

(7) Nothing in this chapter shall grant the executive committee or the board jurisdiction over damage to utilities located above the ground.

SECTION 6. The following shall be codified as Section 77-13-35, Mississippi Code of 1972:

77-13-35. Underground Damage Prevention Fund. (1) There is created an Underground Damage Prevention Fund to be administered and used by the board for the purpose of carrying out its duties under this chapter. All sources of funds collected by the board under this chapter, including, but not limited to, grants, assessments, and civil penalties collected pursuant to this chapter shall be deposited into the Underground Damage Prevention Fund. Any monies remaining in the Underground Damage Prevention Fund at the end of the fiscal year shall not revert to the General Fund, but shall remain in the Underground Damage Prevention Fund for the exclusive use of the board. The expenditure of monies in the Underground Damage Prevention Fund shall be at the discretion of the board to carry out its duties under this chapter. Excess funds shall be used for purposes related to buried utility damage prevention, including, but not limited to, public awareness



programs, training and education programs for excavators, operators, line locators, and other persons to reduce the number and severity of violations of this chapter.

(2) The Pipeline Safety Division, with assistance from the board, shall apply for all grants, including those awarded by the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration, which may be used to fund the cost of services associated with Section 77-13-29(3), and any such grants received shall be used to pay for such services.

SECTION 7. The following shall be codified as Section 77-13-37, Mississippi Code of 1972:

77-13-37. **Scope of authority.** Nothing in this chapter shall expand the jurisdiction of the Pipeline Safety Division or the commission in any way.

SECTION 8. Section 77-13-7, Mississippi Code of 1972, is amended as follows:

77-13-7. (1) Each person responsible for any excavation that results in damage to an underground utility line or underground facility, immediately upon discovery of such damage, shall notify Mississippi * * *~~One-Call System~~ 811, Inc., and notify all operators of such damaged line or facility of the location of the damage and shall allow the operator reasonable time to accomplish any necessary repairs before completing the excavation in the immediate area of the damage to such line or facility.



422 (2) Each person responsible for any excavation that results
423 in damage to an underground pipeline or underground facility
424 permitting the escape of any hazardous, flammable, toxic or
425 corrosive gas or liquid shall, immediately upon discovery of such
426 damage, call 911 and then notify Mississippi * * *~~One-Call System~~
427 811, Inc., and the operator and take other action as may
428 reasonably be necessary to protect persons and property and to
429 minimize the hazards, until arrival of the operator's personnel
430 and the police or fire departments.

431 (3) Except where the excavator has fully complied with the
432 provisions of Section 77-13-5 and subsections (1) and (2) of this
433 section, each person responsible for excavation that results in
434 damage to an underground line or underground facility, except the
435 property owner, unless the property owner is the excavator, shall
436 be responsible for any and all costs and expenses incurred by the
437 operator in restoring, correcting, repairing or replacing the
438 damaged line or facility.

439 **SECTION 9. Section 77-13-5, Mississippi Code of 1972, is**
440 **amended as follows:**

441 77-13-5. (1) In addition to complying with all other
442 applicable regulations and requirements of federal, state, county
443 and municipal authorities, no person shall engage in excavation of
444 any kind, before meeting the notification requirements of this
445 chapter. Under this chapter the excavator shall:



446 (a) Inform himself/herself of the presence and location
447 of any underground utility lines and underground facilities in or
448 near the area where excavation is to be conducted;

449 (b) Plan and conduct the excavation to avoid or
450 minimize interference with or damage to underground utility lines
451 and underground facilities in or near the excavation area;
452 maintain a clearance between any underground utility line or
453 underground facility and the cutting edge or point of any
454 mechanical excavating equipment, taking into account the known
455 limit of control of such cutting edge or point, as may be
456 reasonably necessary to avoid damage to such facility; and provide
457 such support for underground utility lines or underground
458 facilities in and near the excavation area, including during any
459 backfilling operations, as may be reasonably necessary for the
460 protection of such facilities.

461 (c) Except as provided in Section 77-13-11, provide not
462 less than two (2) and not more than ten (10) working days' advance
463 written, electronic or telephonic notice of the commencement,
464 extent, location and duration of the excavation work to
465 Mississippi 811, Inc., so that Mississippi 811, Inc., operator(s)
466 may locate and mark the location of underground utility lines and
467 underground facilities in the excavation area.

468 The written, electronic or telephonic notice required by this
469 paragraph (c) shall contain the name, address and telephone number
470 of the person filing the notice of intent, the person responsible



471 for the excavation, the starting date, anticipated duration, type
472 of excavation to be conducted, the location of the proposed
473 excavation and whether or not explosives are to be used.

474 (2) The markings provided by operators and the locate
475 request number shall only be valid for a period of fourteen (14)
476 calendar days from the date and time the locate request ticket is
477 processed or entered into the system by Mississippi 811, Inc. The
478 person responsible for the excavation project shall renew the
479 notification with Mississippi 811, Inc., at least two (2) and not
480 more than three (3) working days prior to this expiration date and
481 shall continue to renew such notification in the same manner
482 throughout the duration of the excavation. Such renewal notice
483 shall be valid for a period of fourteen (14) calendar days from
484 the date and time the renewal locate request is processed or
485 entered into the system by Mississippi 811, Inc.

486 (3) **Compliance** with the notice requirements **of this section**
487 shall **not** be **required** of: **(a)** persons plowing less than
488 twenty-four (24) inches in depth for agricultural purposes; **(b)**
489 persons who are moving or otherwise displacing, by hand, earth,
490 rock or other material or mass of material on or below the ground
491 at a depth of less than twelve (12) inches on property they own;
492 and **(c)** persons, other than the property owner, who are moving or
493 otherwise displacing, by hand, earth, rock or other material or
494 mass of material on or below the ground at a depth of less than



495 twelve (12) inches, except when such excavation is in a clearly
496 marked underground facility right-of-way.

497 (4) A person may make a written, electronic or telephonic
498 design information request to Mississippi 811, Inc., so that
499 owners and operators of utilities may locate underground utility
500 lines and underground facilities in the design information area.
501 The design information request shall contain the name, address,
502 and telephone number of the person making the request, the type of
503 project planned, and a description of the area to be located with
504 sufficient particularity to enable the utility owner or operator
505 to ascertain the precise tract or parcel of land involved.

506 **SECTION 10.** Section 77-13-9, Mississippi Code of 1972, is
507 amended as follows:

508 77-13-9. (1) Every person owning or operating underground
509 utility lines or underground facilities shall, upon receiving
510 advance notice of the commencement of excavation, in accordance
511 with Section 77-13-7, make an investigation, and may report
512 through the use of the PRIS the status of the work performed,
513 within two (2) working days from the time notice is provided in
514 accordance with this chapter to * * *~~the~~ Mississippi 811, Inc.,
515 to determine the approximate location of its underground utility
516 lines or underground facilities in the area of the proposed
517 excavation, and shall either: (a) mark the approximate location
518 of underground utility lines and underground facilities in or near
519 the area of the excavation, so as to enable the person engaged in



520 excavation work to locate the lines and facilities in advance of
521 and during the excavation work; (b) advise in writing or by
522 telephone or electronic means that it has no underground utility
523 lines or underground facilities in the excavation area; or (c)
524 advise in writing or by telephone or electronic means that it can
525 locate its underground utility lines or underground facilities in
526 the excavation area only by excavation. If an operator can locate
527 its underground utility lines or underground facilities in the
528 excavation area only by excavation and has given proper notice of
529 such, that operator shall be allowed a reasonable amount of
530 additional time, not to exceed four (4) working days from the day
531 the original notice was provided in accordance with this chapter,
532 to mark the approximate location of the underground utility lines
533 or underground facilities.

534 (2) In lieu of such marking, the operator may request to be
535 present at the site upon commencement of the excavation, so long
536 as the operator complies within two (2) working days of the
537 receipt of the notice.

538 (3) When an excavator, upon arriving at an excavation site,
539 sees evidence of unmarked underground utility lines or underground
540 facilities or encounters an unmarked underground utility line or
541 underground facility on an excavation site after excavation has
542 commenced where notice of intent has been made in accordance with
543 the provisions of this chapter, that excavator must immediately
544 contact Mississippi 811, Inc. All operator(s) thus notified must



545 contact the excavator within four (4) hours and inform the
546 excavator of any of their known underground facilities, active or
547 abandoned, at the site of the excavation.

548 (4) When marking the approximate location of the facilities,
549 the operator shall follow the color code designated and described
550 herein, unless otherwise provided for by specific administrative
551 rule or regulation promulgated pursuant to this chapter, namely:

552 UTILITY OR TYPE OF FACILITY	GROUP IDENTIFYING COLOR
553 Electric	Safety Red
554 Petroleum Product/Hazardous/ 555 Flammable/Corrosive/Toxic 556 Materials, Product and Steam 557 Lines, Gas or Gaseous Material	High Visibility Safety 558 Yellow
559 Telecommunications (including fiber 560 optics) and CATV	Safety Alert Orange
561 Potable Water	Safety Precaution Blue
562 Reclaimed Water, Irrigation, 563 Slurry Lines	Purple
564 Sewer and Drain Lines	Safety Green
565 Temporary Survey Markings	High Visibility Pink
566 Proposed Excavation	White

567 (5) All utility facilities installed by owners or operators
568 of utilities on or after January 1, 2010, shall be installed in



569 such manner that the utility facility may be located by using a
570 generally accepted electronic locating method.

571 (6) Except for emergency excavations, if, before the
572 expiration of the two (2) working days' waiting period, all
573 identified facility owners or operators have responded to the
574 locate request and all have indicated that their facilities are
575 either not in conflict or have been marked as indicated through
576 the use of the PRIS, then the person planning to perform
577 excavation or blasting shall be authorized to commence work,
578 subject to the other requirements of this section, without waiting
579 the full two (2) working days.

580 (7) Upon receiving a design information request, the utility
581 owner or operator shall within seven (7) working days from the
582 time notice is provided in accordance with this chapter to
583 Mississippi 811, Inc., respond by one (1) of the following
584 methods: (a) marking the approximate location of its underground
585 utility lines and underground facilities in the area in accordance
586 with subsection (1) of this section; (b) providing to the person
587 making the design information request the best available
588 description of its underground utility lines and underground
589 facilities in the area which may include drawings or other records
590 maintained by the utility owner or operator; or (c) allowing the
591 person making the design information request or any other
592 authorized person to inspect or copy the drawings or other records



593 for all underground utility lines and utility facilities in the
594 area.

595 **SECTION 11.** This act shall take effect and be in force from
596 and after July 1, 2016, except for Section 2 of this act which
597 shall take effect and be in force from and after January 1, 2017.



OFFICE OF STATE AID ROAD CONSTRUCTION STANDARD OPERATING PROCEDURES			S.O.P. NO. SA II-2-8 Page 1 of 17
Subject: S.O.P. ACCOMMODATION OF UTILITIES ON RIGHTS-OF-WAY			Distribution A, B, C, D, E
EFFECTIVE July 1, 2005	ISSUED July 1, 2005	SUPERSEDES Page 1 of 17 S.O.P. NO. SAD II-2-8 EFFECTIVE: January 1, 1983	APPROVED J. Brooks Miller, Sr. STATE AID ENGINEER

PURPOSE: To State The Policy of State Aid To Regulate The Installation And/Or Adjustment Of Utility Facilities Within The Rights-Of-Way Of The County-Federal And State Aid Systems.

GENERAL: The County has the responsibility to maintain its highway rights-of-way in such a manner as will preserve the integrity, safety, and function of the highway facilities. Since the manner in which utilities cross or otherwise occupy highway rights-of-way can affect the appearance, safety, and maintenance of the highway, it is necessary that such use and occupancy be authorized and reasonably regulated.

1. APPLICATION:

This policy applies to all public and private utilities, including electric power, telephone, telegraph, water, gas, oil, petroleum products, steam, chemicals, sewage, drainage, irrigation, and similar lines, that are to be accommodated, adjusted, or relocated within the rights-of-way on the County-Federal Aid and State Aid Systems. **The Board at its discretion may apply this Policy to those County roads not on the Federal Aid and State Aid Systems.** Such utilities may involve underground or overhead facilities, either singularly or in combination.

2. SCOPE:

This policy provides for regulating the future location, design, and method of installing, adjusting, and maintaining utilities within the rights-of-way of the County-Federal Aid and State Aid Systems. It does not alter those regulations governing the location, relocation and/or adjustment of utility facilities previously authorized by the Boards of Supervisors; nor does it determine the financial responsibilities of the County and the utilities involved. It is limited to matters which are the responsibility of the office of State Aid Road Construction and the Boards of Supervisors for preserving the integrity of roads and their safe usage.

3. DEFINITION OF TERMS:

The following terms contained in this Policy or in related and supplemental documents, instruments and/or permits shall be interpreted as follows:

APPLICANT: Any utility company, association or individual receiving a permit from the County Board of Supervisors to locate, relocate, adjust and maintain its utility facilities within the County highway rights-of-way.

BACKFILL: The replacement of soil around and over a pipe or conduit.

BEDDING: The organization of soil to support a pipe.

OFFICE OF STATE AID ROAD CONSTRUCTION STANDARD OPERATING PROCEDURES			S.O.P. NO. SA II-2-8 Page 2 of 17
Subject: S.O.P. ACCOMMODATION OF UTILITIES ON RIGHTS-OF-WAY			Distribution A, B, C, D, E
EFFECTIVE July 1, 2005	ISSUED July 1, 2005	SUPERSEDES Page 2 of 17 S.O.P. NO. SAD II-2-8 EFFECTIVE: January 1, 1983	APPROVED J. Brooks Miller, Sr. STATE AID ENGINEER

BOARD: The Board of Supervisors of the individual County.

BOND: The approved form of security furnished by the applicant and its surety, if required, as a guaranty of good faith and ability on the part of the applicant to execute the work and maintenance in accordance with the terms of the permit and these specifications.

BURY: Depth of the top of utility line below the grade of roadway or ditch.

CAP: Rigid structural element surmounting a pipe.

CARRIER: A pipe directly enclosing a transmitted fluid (liquid or gas).

CASING: A larger pipe enclosing a carrier pipe.

CLEAR ZONE POLICY: The policy employed by highway authorities to increase safety, improve traffic operation, and enhance the appearance of highways by designing, constructing, and maintaining highway roadsides as wide, flat, and rounded as practicable and to eliminate physical obstructions above the ground, such as trees, drainage structures, sign supports, utility poles, and other ground-mounted obstructions.

COATING: Material applied to or wrapped around a pipe.

CONDUIT OR DUCT: An enclosed tubular runway for protecting wires or cables.

CONVENTIONAL HIGHWAY: An arterial highway without access control.

COUNTY: That area of land, designated by law, under the jurisdiction of the County Board of Supervisors

CRADLE: Rigid structural element below and supporting a pipe.

CROWN: The vertical rise between the edge of the road (shoulder line) and the center of the road.

CROWN WIDTH: The horizontal distance between the shoulder lines of the road.

DIRECT BURIAL: Installing a utility facility underground without encasement.

DRAIN: Appurtenance to discharge liquid contaminants from casings.

ENCASEMENTS: Structural element surrounding a pipe.

OFFICE OF STATE AID ROAD CONSTRUCTION STANDARD OPERATING PROCEDURES			S.O.P. NO. SA II-2-8 Page 3 of 17
Subject: S.O.P. ACCOMMODATION OF UTILITIES ON RIGHTS-OF-WAY			Distribution A, B, C, D, E
EFFECTIVE July 1, 2005	ISSUED July 1, 2005	SUPERSEDES Page 3 of 17 S.O.P. NO. SAD II-2-8 EFFECTIVE: January 1, 1983	APPROVED J. Brooks Miller, Sr. STATE AID ENGINEER

ENCROACHMENT: Authorized or unauthorized use of highway right-of-way or easements, such as signs, fences, buildings, etc.

ENGINEER: The County Engineer employed by the County Board of Supervisors in accordance with law and acting under the rules and regulations of this Policy and the approval of the State Aid Engineer.

FLEXIBLE PIPE: A plastic, fiberglass or metallic pipe having large ratio of diameter to wall thickness which can be deformed without undue stress.

GALLERY: An underpass for two or more pipelines.

GROUNDING: Connected to earth or to some extended conducting body which serves instead of the earth, whether the connection is intentional or accidental.

GROUT: A cement mortar or slurry of fine sand or clay, as conditions govern.

HIGHWAY, STREET OR ROAD: A general term denoting a public way for the purpose of vehicular travel, including the entire area within the right-of-way.

JACKET: Encasement by concrete poured around a pipe.

MANHOLE: An opening in an underground system which workmen or others may enter for the purpose of making installations, inspections, repairs, connections, and tests.

MATERIALS: Any specified substance, manufactured items or raw materials used in the utility facility construction.

MEDIAN: The portion of a divided highway separating the traveled way for traffic in opposite directions.

NORMAL: Crossing at a right angle.

OBLIQUE: Crossing at an acute angle.

OVERFILL: Backfill above a drainage structure above natural ground.

PAVEMENT STRUCTURE: The combination of subbase, base course, and surface course placed on the subgrade to support the traffic load and distribute it to the roadbed.

OFFICE OF STATE AID ROAD CONSTRUCTION STANDARD OPERATING PROCEDURES			S.O.P. NO. SA II-2-8 Page 4 of 17
Subject: S.O.P. ACCOMMODATION OF UTILITIES ON RIGHTS-OF-WAY			Distribution A, B, C, D, E
EFFECTIVE July 1, 2005	ISSUED July 1, 2005	SUPERSEDES Page 4 of 17 S.O.P. NO. SAD II-2-8 EFFECTIVE: January 1, 1983	APPROVED J. Brooks Miller, Sr. STATE AID ENGINEER

PERMIT: The permission, in written form, issued by the Board through its authorized representative to the applicant to proceed with the utility facility location, relocation, and/or adjustment within the highway rights-of-way under the provisions of this Policy.

PIPE: A tubular product made as a production item for sale as such. Cylinders formed from plate in the course of the fabrication of auxiliary equipment are not pipe as defined here.

PLANS: The proposal of the applicant to do certain utility work within a highway right-of-way, including working drawings showing the location, character of work, dimensions, and details of the work proposed.

PRESSURE: Relative internal pressure in PSIG (pounds per square inch gauge).

PROJECT: Specific construction within a highway right-of-way for which a permit is sought by the applicant.

RIGHT-OF-WAY: The land conveyed, reserved, secured, dedicated, acquired, or used for highway or street purposes.

ROADBED: The graded portion of a road, between the intersection of top and side slopes, upon which the pavement structure and shoulders are constructed.

ROAD SIDE: A general term denoting the area adjoining the outer edge of the roadway.

ROADWAY: The portion of a highway, including shoulders, for vehicular use.

SEMI-RIGID PIPE: A large diameter metallic pipe designed to tolerate diametric deflection up to 3.0 percent.

SHOULDERS: That portion of roadway contiguous with the traveled way for accommodating stopped vehicles and for lateral support of the base and surface courses.

SIDEFILL: Backfill alongside a pipe

SLEEVE: A short casing through a pier or abutment of a highway structure.

SPECIAL PROVISIONS: Specific directions and provisions additional to these specifications and made a part of the permit, setting forth conditions or requirements peculiar to the permit or project and which govern over these specifications.

STATE AID ENGINEER: The Engineer, appointed by the Governor, who is responsible for administering the State Aid Road Program.

OFFICE OF STATE AID ROAD CONSTRUCTION STANDARD OPERATING PROCEDURES			S.O.P. NO. SA II-2-8 Page 5 of 17
Subject: S.O.P. ACCOMMODATION OF UTILITIES ON RIGHTS-OF-WAY			Distribution A, B, C, D, E
EFFECTIVE July 1, 2005	ISSUED July 1, 2005	SUPERSEDES Page 5 of 17 S.O.P. NO. SAD II-2-8 EFFECTIVE: January 1, 1983	APPROVED J. Brooks Miller, Sr. STATE AID ENGINEER

SUBGRADE: That portion of the roadway prepared as a foundation for the subbase, base and pavement structure. The subgrade may be considered as part of the subbase structure when treated with appropriate additives.

SURETY: That corporate body, qualified under the laws of Mississippi, which is bound with and for the applicant for acceptable performance of the project construction and maintenance.

TRAVELED WAY: That portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

TRENCHED: Installed in a narrow open excavation.

UNTRENCHED: Installed without breaking ground or pavement surface, such as by jacking or boring.

USE AND OCCUPANCY AGREEMENTS: The document by which the County Board of Supervisors regulates and gives approval of the use and occupancy of County highway right-of-way for utility facilities.

UTILITY: Any public or private company, whether owned by a person, partnership, district, association or corporation, operating an electric, telephone, radio, telegraph, gas, oil, water, or sewer transmission or distribution, proposing to construct or adjust its lines within the right-of-way of a County highway or street. A utility shall include any contractor or subcontractor, or other person proposing to perform work for the applicant within a County highway right-of-way. The words "Applicant" and "Utility" mean the same in this Policy.

VENT: An appurtenance to discharge gaseous contaminants from casings.

WALLED: Partially encased by concrete poured alongside the pipe.

4. GENERAL CONSIDERATIONS:

4.1. Location:

- 4.1.1. Utility lines should be located in such manner as to minimize the need for later adjustments to accommodate future highway improvements and to permit access for servicing such lines with a minimum interference to highway traffic.
- 4.1.2. Longitudinal installations should be located on reasonably uniform alignment and as near as practical to the right-of-way lines so as to provide a safe environment for traffic operation and to preserve space for future highway improvements or other utility installations.

OFFICE OF STATE AID ROAD CONSTRUCTION STANDARD OPERATING PROCEDURES			S.O.P. NO. SA II-2-8 Page 6 of 17
Subject: S.O.P. ACCOMMODATION OF UTILITIES ON RIGHTS-OF-WAY			Distribution A, B, C, D, E
EFFECTIVE July 1, 2005	ISSUED July 1, 2005	SUPERSEDES Page 6 of 17 S.O.P. NO. SAD II-2-8 EFFECTIVE: January 1, 1983	APPROVED J. Brooks Miller, Sr. STATE AID ENGINEER

- 4.1.3. Utility line crossings of the highway should cross on a line generally normal to highway alignment to the maximum practical extent.
- 4.1.4. The proposed horizontal and vertical dimensions and clearances for the various types of utilities must be clearly shown on the plans or stated in the agreement between the Board and the Utility.
- 4.1.5. Utility lines shall be installed within the rights-of-way in such manner and at such locations as will provide the maximum roadside clearance from the edge of the traveled way. Normally the installations will be at or near the backside of the right-of-way and should be a minimum of thirty (30) feet from the edge of the traveled way where the right-of-way width and typical cross section will permit.
- 4.1.6. Safety and Convenience/Control of Traffic: Traffic controls for utility construction and maintenance operations shall conform with the Manual of Uniform Traffic Control Devices for Streets and Highways. All construction and maintenance operations should be planned with full regard to safety and to keep traffic interference to an absolute minimum.
- 4.1.7. Servicing, Maintenance and Repairs: All utility facilities should be kept in a good state of repair both structurally and from a standpoint of appearance. The "Utility Use and Occupancy Agreement" should identify maintenance operations which are permitted and indicate situations where prior notification to the County Board is required.
- 4.2. Plans and Design: The Utility and its Engineer shall be responsible for the design and development of plans for the proposed installations and/or adjustments.

The County Engineer, acting as the duly authorized representative of the Board, shall be responsible for the review of plans and design of utility installation to determine if they meet the requirements set out in this Policy and shall recommend approval or disapproval to the Board.

All utility installations shall meet the following minimum requirements:

- 4.2.1. Electrical power and communication lines shall conform to the National Electrical Safety Code.
- 4.2.2. Water lines shall conform to the specifications of the American Water Works Association.

OFFICE OF STATE AID ROAD CONSTRUCTION STANDARD OPERATING PROCEDURES			S.O.P. NO. SA II-2-8 Page 7 of 17
Subject: S.O.P. ACCOMMODATION OF UTILITIES ON RIGHTS-OF-WAY			Distribution A, B, C, D, E
EFFECTIVE July 1, 2005	ISSUED July 1, 2005	SUPERSEDES Page 7 of 17 S.O.P. NO. SAD II-2-8 EFFECTIVE: January 1, 1983	APPROVED J. Brooks Miller, Sr. STATE AID ENGINEER

4.2.3. Pressure pipe lines shall conform with currently applicable sections of ANSI Standard Code for Pressure Piping of the American National Standards Institute and applicable current industry codes, including:

- (1) Power Piping
- (2) Petroleum Refinery Piping
- (3) Liquid Petroleum Transportation Piping Systems
- (4) Gas Transmission and Distribution Piping Systems

4.2.4. Sewer lines - ASTM specifications.

4.3. Application For Permit: The Utility shall request a permit to make a specific installation of its facilities within the rights-of-way. The request must be submitted in triplicate on forms obtained from the County Engineer or other duly authorized representative of the Board, together with detailed sketches and drawings showing the proposed installation.

The County Engineer will review the request and, if found to meet the requirements of this policy, will make his recommendation to the Board whether or not the installation be authorized. When authorized, one copy of the approved request will be furnished the Utility, one copy will be furnished State Aid, and one copy retained by the County.

The County Engineer will keep records of all permits issued and should carefully review subsequent requests to prevent conflicts in the location of utility facilities and interruptions in utility services.

4.4. Board's Jurisdiction Over County Roads: The Board of Supervisors of a County has legal jurisdiction of all County roads, and nothing in this Policy is intended to limit that authority.

4.5. Prosecution and Progress of the Work: The Board and County Engineer will not recognize any Contractor, Subcontractor, agent, or employee on the project except as a direct representative of the Utility named in the application. The Utility Company shall be fully responsible for the work performed under these regulations.

The control of proposed work to be done on County Highway rights-of-way, especially underground installations, will be staked by the Utility engineering personnel to facilitate inspection by the County Engineer prior to installation. Horizontal clearance for the new underground installations should be a minimum of five (5) feet from any previously installed utility to prevent interruption of service.

No work on installations and/or adjustments of utility facilities shall be performed until the permit has been approved by the County and until the County Engineer has been given at least twenty-four (24) hours advance notice.

OFFICE OF STATE AID ROAD CONSTRUCTION STANDARD OPERATING PROCEDURES			S.O.P. NO. SA II-2-8 Page 8 of 17
Subject: S.O.P. ACCOMMODATION OF UTILITIES ON RIGHTS-OF-WAY			Distribution A, B, C, D, E
EFFECTIVE July 1, 2005	ISSUED July 1, 2005	SUPERSEDES Page 8 of 17 S.O.P. NO. SAD II-2-8 EFFECTIVE: January 1, 1983	APPROVED J. Brooks Miller, Sr. STATE AID ENGINEER

The Board and County Engineer may require certain phases of the work to be completed first and shall at all times have authority to regulate the progress of the work within the right-of-way when they deem it to be in the public interest, welfare, and safety.

- 4.6. Utility's Responsibility to the Public: The Utility shall observe and comply with all ordinances and regulations affecting those engaged or employed in the work. The applicant shall also conduct its operations so as to offer the least possible obstruction and inconvenience to the traveling public. The Utility shall provide and maintain, as far as practicable, convenient access to driveways, houses and buildings along the right-of-way under construction, and shall keep the road open, provide barricades, warning signs, flaggers, lights, and other safety devices as needed to warn the traveling public that construction is in progress.

When the use of explosives is necessary for the prosecution of the work, the Utility shall use utmost care not to endanger life or property and shall give ample advance notice to the Engineer when the explosives are to be used. The Utility shall be responsible for the preservation from injury or damage, resulting directly or indirectly, from execution of the work to all public or private property adjacent to the work, such as poles, trees, shrubbery, crops, overhead structures (wires, cable, etc.) and all underground structures such as pipes, conduits, meters, etc., within or outside the right-of-way.

The applicant shall take into consideration other Utilities having facilities within the right-of-way and shall take precautions not to damage or interfere with such property or the use thereof.

- 4.7. Exception:

- 4.7.1. Emergency Repairs: Whenever breaks, leaks or other abnormal occurrences interrupt Utility services, the Utility may restore such services without securing a permit but shall perform such work in such manner as will do the least possible damage to the highway facility and as will create the least possible safety hazard to the traveling public. The Utility shall notify the Board and County Engineer of such emergency repairs.

Where new installations are to be made across a paved highway such new installations shall be made by jacking or boring process and shall be encased as provided in Subsections 5.2 and 6.3 of this S.O.P..

- 4.7.2. Overhead Service and Supply Lines: Work on overhead facilities and supply lines which do not require trenching, excavating or erecting poles or structures within the rights-of-way may be installed by the Utility without a permit, provided such installation does not conflict with the provisions of this Policy nor interfere with traffic in any way.

OFFICE OF STATE AID ROAD CONSTRUCTION STANDARD OPERATING PROCEDURES			S.O.P. NO. SA II-2-8 Page 9 of 17
Subject: S.O.P. ACCOMMODATION OF UTILITIES ON RIGHTS-OF-WAY			Distribution A, B, C, D, E
EFFECTIVE July 1, 2005	ISSUED July 1, 2005	SUPERSEDES Page 9 of 17 S.O.P. NO. SAD II-2-8 EFFECTIVE: January 1, 1983	APPROVED J. Brooks Miller, Sr. STATE AID ENGINEER

5. POWER AND COMMUNICATION LINES:

5.1. Overhead Power and Communication Lines:

5.1.1. Location and Alignment:

5.1.1.1. All overhead or aboveground facilities, including poles, meters, entrance boxes, connectors, and other devices should be located as near the outside limits of the right-of-way as will provide sufficient width to accommodate same. Poles for overhead lines should be not less than thirty feet (30') from the edge of the traveled way.

5.1.1.2. Where irregular shaped areas of the rights-of-way extend beyond the normal right-of-way limits, the location of the utility facility should be such as will provide a reasonably uniform alignment.

5.1.1.3. The trimming and cutting of trees and shrubbery on private property adjacent to the right-of-way line to accommodate an overhead facility is a responsibility of the Utility.

5.1.1.4. Guy wires and cables to ground anchors should not be placed between the pole and traveled way where they will encroach upon the zone or maintenance areas.

5.1.1.5. Longitudinal installations of overhead facilities should be limited to single pole type construction. Where more than one type of overhead facility is to be accommodated, joint use of single pole construction should be encouraged.

5.1.2. Vertical Clearances: The minimum vertical clearances of overhead lines above the roadway surface shall be:

Lines of 750 volts or less	20 Feet
Lines greater than 750 volts	24 Feet
Guy Wires and Cables and Communication Lines	18 Feet

Greater vertical clearances should be obtained when required by the National Electric Safety Code.

OFFICE OF STATE AID ROAD CONSTRUCTION STANDARD OPERATING PROCEDURES			S.O.P. NO. SA II-2-8 Page 10 of 17
Subject: S.O.P. ACCOMMODATION OF UTILITIES ON RIGHTS-OF-WAY			Distribution A, B, C, D, E
EFFECTIVE July 1, 2005	ISSUED July 1, 2005	SUPERSEDES Page 10 of 17 S.O.P. NO. SAD II-2-8 EFFECTIVE: January 1, 1983	APPROVED J. Brooks Miller, Sr. STATE AID ENGINEER

- 5.2. Underground Power and Communication Lines: Underground facilities shall be installed by accepted methods and practices and shall conform to all applicable codes, standards, and specifications.

5.2.1. Location and Alignment:

- 5.2.1.1. Longitudinal Installations: The underground facilities shall be located parallel to and adjacent to the right-of-way line so as to minimize interference with drainage and maintenance of the roadside area.

In special cases where it is not feasible to locate the facility adjacent to the right-of-way line, the Board and County Engineer may approve a location between the right-of-way line and the shoulder line, but should not be less than ten (10) feet from the edge of the pavement.

- 5.2.1.2. The underground installations are not to be constructed on shoulders.

In special cases, installations may be approved on foreslopes, provided the trenching or plowing does not cut through the base and subbase drainage, and further provided that the installations do not undermine the embankment or cut foreslopes.

- 5.2.1.3. Pedestals or other underground utility appurtenances installed as a part of the buried cable facility should be located outside of the highway maintenance area.

- 5.2.1.4. Road crossing installations should be located at right angles to the roadway.

- 5.2.1.5. Roadway structures are not to be used for road crossing installations.

- 5.2.1.6. Unsuitable locations for underground road crossing installations such as in deep cuts, near bridge footings, across intersections at grade, at cross drains, and in rocky terrain should be avoided.

- 5.2.1.7. All installations crossing hardsurfaced or paved roads should be accomplished by jacking or boring. The cutting of the base and pavement structures by the open trench method should not be permitted.

OFFICE OF STATE AID ROAD CONSTRUCTION STANDARD OPERATING PROCEDURES			S.O.P. NO. SA II-2-8 Page 11 of 17
Subject: S.O.P. ACCOMMODATION OF UTILITIES ON RIGHTS-OF-WAY			Distribution A, B, C, D, E
EFFECTIVE July 1, 2005	ISSUED July 1, 2005	SUPERSEDES Page 11 of 17 S.O.P. NO. SAD II-2-8 EFFECTIVE: January 1, 1983	APPROVED J. Brooks Miller, Sr. STATE AID ENGINEER

5.2.2. Depth of Bury:

- 5.2.2.1. Longitudinal lines should be installed at a depth of not less than 24 inches below the ground surface where such installations are made outside of cut, ditch or fill slope area.
- 5.2.2.2. Where longitudinal lines are placed within cut, ditch or fill slope areas, the depth of bury should be not less than 36 inches below the ground surface.
- 5.2.2.3. Underground installations of road crossings should be a minimum of four feet (4') below the road surface, and/or three feet (3') below ditch bottom.

5.2.3. Backfill and Resodding of Disturbed Construction Areas:

- 5.2.3.1. All trenches or disturbed areas of construction shall be backfilled and thoroughly tamped in lifts not to exceed six (6) inches to prevent erosion.
- 5.2.3.2. Disturbed areas of construction will be dressed and resodded to restore the area to original condition of natural growth.

5.2.4. Encased and Unencased Construction:

- 5.2.4.1. Electric power or telephone cables must be encased when required by applicable codes and standards governing that particular utility. Encasement of all lines is encouraged for maintenance reasons, since the cutting of the pavement, base and subbase for maintaining or replacing the cables should not be permitted.
- 5.2.4.2. Unencased cable crossings should be limited to small bores where soil conditions permit boring a hole about the same size of the cable and pulling the cable through.
- 5.2.4.3. Where underground road crossing lines are encased in protective conduit, the encasement should extend a minimum of five feet (5') beyond the toes of slope or to the ditch line. Where appropriate, the encasement should extend to a point outside of construction limits to allow for future widening of the Highway facility.
- 5.2.4.4. Where unencased bored installations are proposed, the Utility is to furnish information as to controls and construction methods to be employed before the proposed installation is considered by the County.

OFFICE OF STATE AID ROAD CONSTRUCTION STANDARD OPERATING PROCEDURES			S.O.P. NO. SA II-2-8 Page 12 of 17
Subject: S.O.P. ACCOMMODATION OF UTILITIES ON RIGHTS-OF-WAY			Distribution A, B, C, D, E
EFFECTIVE July 1, 2005	ISSUED July 1, 2005	SUPERSEDES Page 12 of 17 S.O.P. NO. SAD II-2-8 EFFECTIVE: January 1, 1983	APPROVED J. Brooks Miller, Sr. STATE AID ENGINEER

5.3. Attachment of utility Facilities to Bridges:

- 5.3.1. General: The attachment of utility lines to bridges should be avoided where it is feasible and reasonable to locate the utility lines elsewhere. However, where other locations prove to be extremely difficult and unreasonably costly, consideration will be given to attaching the utility line to a bridge structure by a method acceptable to the County Engineer and the State Aid Engineer. Such consideration shall conform to logical and sound engineering principles for preserving the highway structure, its safe operation, maintenance, and appearance. The following provisions should be adhered to:
- 5.3.1.1. Each proposed bridge attachment shall be considered on its merits and shall be separately designed. Such attachment will not be considered unless the structure in question is of a design that is adequate to support the utility facility without compromise of highway features, including reasonable ease of bridge maintenance.
- 5.3.1.2. Utility facility mountings must be of a type that will prevent rattling of the lines under traffic vibrations.
- 5.3.1.3. Utility installations that would reduce the vertical clearance, otherwise available, above streams, pavements, or rails will not be permitted.
- 5.3.1.4. On pipe lines carrying liquids, gases and other petroleum products, the utility company shall be responsible for designing the lines so as to eliminate the need for encasement. The lines shall also be designed and attached in such a manner as will prevent corrosion to the concrete and steel members of the bridge.
- 5.3.1.5. Proposed bridges may be designed over and above normal standards to carry the additional loading of utility lines and the additional costs involved may be charged to the Utility Company.

OFFICE OF STATE AID ROAD CONSTRUCTION STANDARD OPERATING PROCEDURES			S.O.P. NO. SA II-2-8 Page 13 of 17
Subject: S.O.P. ACCOMMODATION OF UTILITIES ON RIGHTS-OF-WAY			Distribution A, B, C, D, E
EFFECTIVE July 1, 2005	ISSUED July 1, 2005	SUPERSEDES Page 13 of 17 S.O.P. NO. SAD II-2-8 EFFECTIVE: January 1, 1983	APPROVED J. Brooks Miller, Sr. STATE AID ENGINEER

6. PRESSURE PIPELINES CARRYING GASES, FLAMMABLE LIQUIDS, OR WATER:

- 6.1. Design: The Utility is responsible for the design of its facilities in accordance with all applicable codes, standards, and laws. The County Engineer, as the authorized agent of the Board, is responsible for the manner in which the facilities are located on the County right-of-way, including measures to be taken to preserve the safe and free flow of traffic, structural integrity of the highway, and ease of maintenance.
- 6.2. Location and Alignment:
 - 6.2.1. Pipeline crossings of the highway should be located at right angles to the center line unless practicality and economics warrant and dictate angles of crossing of less than ninety degrees (90°).
 - 6.2.2. Unsuitable pipeline crossings, such as in deep cuts, near bridge or retaining wall footings, across intersections at grade or near cross-drains, should be avoided.
 - 6.2.3. Longitudinal installations should be located generally parallel to and as near the right-of-way line as is practicable so as to minimize interference with drainage and to preserve the integrity of the pavement, shoulders, and slopes, and to promote safety for the traveling public.
 - 6.2.4. Plastic (or vinyl) type pipe used for the mains and service connections of water distribution systems should be taped or wrapped with a single strand of No. 12 plastic coated wire to serve as a means of locating the lines in the future by means of electrical devices.
- 6.3. Encasement for Carrier Pipe Protection: The County's responsibility pertains primarily to the safety and convenience of the traveling public. The Utility is responsible for the quality and safety of the installation, including non-encased construction, when permitted. The following provisions shall govern:
 - 6.3.1. Encased Pipe for Road Crossings:
 - 6.3.1.1. Encasement is recommended for all pipe installations across paved or hard-surfaced roads, where feasible, as a means of avoiding open trench construction and as a protection of carrier pipe from external loads or shocks.
 - 6.3.1.2. All coated carrier pipes should be encased.
 - 6.3.1.3. All lines carrying liquids should be encased.

OFFICE OF STATE AID ROAD CONSTRUCTION STANDARD OPERATING PROCEDURES			S.O.P. NO. SA II-2-8 Page 14 of 17
Subject: S.O.P. ACCOMMODATION OF UTILITIES ON RIGHTS-OF-WAY			Distribution A, B, C, D, E
EFFECTIVE July 1, 2005	ISSUED July 1, 2005	SUPERSEDES Page 14 of 17 S.O.P. NO. SAD II-2-8 EFFECTIVE: January 1, 1983	APPROVED J. Brooks Miller, Sr. STATE AID ENGINEER

6.3.1.4. Lines with less than minimum bury, near footings of bridges and structures, across unstable or subsiding ground, or near other hazards should be encased. All encasements shall be of such design as will support the loads to which they are subjected and shall be of such materials as will be durable under conditions to which they may be exposed.

6.3.1.5. It is the responsibility of the Utility company to ensure that the encasement pipes shall be of sufficient thickness as to withstand both external and internal pressures.

6.3.1.6. Encasement pipes should extend seven feet (7') from the normal shoulder line of the roadway or a minimum of five feet (5') from the toe of the embankment slope. In curb and gutter sections, the encasements shall extend at least to the back of the curbs.

6.3.1.7. Encasements shall be sealed at the ends to prevent debris, soil, and moisture from entering the space between the carrier pipe and the casing.

6.3.2. Unencased Pipeline Crossings: Under certain conditions, proposed pipeline crossings may be installed, or existing installations may remain in place, without encasement. The following conditions shall govern in such instances:

6.3.2.1. The carrier pipe should conform to the material design requirements of the utility facility and to all governmental codes, specifications, and regulations.

6.3.2.2. Carrier pipes shall provide for a higher factor of safety than would normally be required outside of the highway area.

6.3.2.3. Existing unencased lines may remain in place without further protection if they were installed at such depth that will not conflict with future highway construction and maintenance and provided that both the County and the Utility are satisfied that the lines are structurally sound.

6.3.2.4. In the event it is necessary to replace unencased lines under the roadway, new lines will be installed, since the cutting of the pavement and base should not be permitted.

6.3.2.5. When encasement under a road crossing is not provided or when an existing installation is to remain in place with encasement, the utility shall furnish the County with a Certificate as set out below:

OFFICE OF STATE AID ROAD CONSTRUCTION STANDARD OPERATING PROCEDURES			S.O.P. NO. SA II-2-8 Page 15 of 17
Subject: S.O.P. ACCOMMODATION OF UTILITIES ON RIGHTS-OF-WAY			Distribution A, B, C, D, E
EFFECTIVE July 1, 2005	ISSUED July 1, 2005	SUPERSEDES Page 15 of 17 S.O.P. NO. SAD II-2-8 EFFECTIVE: January 1, 1983	APPROVED J. Brooks Miller, Sr. STATE AID ENGINEER

CERTIFICATE OF _____ UTILITY COMPANY FOR THE
UNENCASED PIPELINE CROSSING

PROJECT NO. _____
NAME OF ROAD _____
COUNTY OF _____
STATION NO. _____

We _____ do hereby certify that the line at the location noted above
(Applicant)

carrying _____ shown in this application will not need encasement and that
(gas, oil, or fuels)

the operating pressure will be _____ pounds per square inch. This line will be regularly inspected and adequately maintained. Extra yield strength pipe (will be or was) used in this installation as shown on the sketch or plans for this pipe crossing. Adequate cover for the pipe is provided.

Certified Correct _____
Title _____
Date _____, 20____

6.4. Depth of Bury: The depth of bury established for these pipeline installations should take into consideration a potential increase in ditch depth, resulting from scour, ditch maintenance operations, or the need to increase the capacity of the ditch. Minimum depths are set out below:

- 6.4.1. Transmission pipelines shall be three (3) feet or more below the surface of normal ground outside of cut, ditch or fill slope areas. Distribution mains may be placed two (2) feet below normal ground line in open or rocky terrain, outside of cut, ditch or fill slope areas.
- 6.4.2. Lines installed in cut ditches on fairly steep grades shall be a minimum of three (3) feet below ditch bottom.
- 6.4.3. The depth of bury below the proposed pavement or riding surface of the road shall be a minimum of four (4) feet.
- 6.4.4. Bury of pipelines carrying transmittants which are flammable, corrosive, explosive, energized, or unstable, particularly if the transmittants are carried at high pressure, must not be reduced below safety requirements recommended by the utility industry involved.

OFFICE OF STATE AID ROAD CONSTRUCTION STANDARD OPERATING PROCEDURES			S.O.P. NO. SA II-2-8 Page 16 of 17
Subject: S.O.P. ACCOMMODATION OF UTILITIES ON RIGHTS-OF-WAY			Distribution A, B, C, D, E
EFFECTIVE July 1, 2005	ISSUED July 1, 2005	SUPERSEDES Page 16 of 17 S.O.P. NO. SAD II-2-8 EFFECTIVE: January 1, 1983	APPROVED J. Brooks Miller, Sr. STATE AID ENGINEER

6.5. Backfill and Resodding of Disturbed Construction Areas:

- 6.5.1. All trenches or disturbed areas of construction shall be backfilled and thoroughly tamped in lifts not to exceed six inches (6") to prevent erosion.
- 6.5.2. Disturbed areas of construction will be dressed and resodded to restore the area to original condition of natural growth.

6.6. Appurtenances: Pipeline installation appurtenances such as vents, drains, markers, manholes, and shutoff valves must comply with governing specifications, regulations, and codes of the particular utility industry involved. The additional following provisions must be adhered to:

- 6.6.1. The Utility shall place readily identifiable markers at the right-of-way line where it is crossed by pipelines carrying transmittants under pressure.
- 6.6.2. All appurtenances shall be located and constructed in such manner so as not to interfere with the proper maintenance of highway facility.
- 6.6.3. No appurtenances should be placed within the pavement area or on the shoulders of the highway. Exceptions may be made on streets in urban areas where manholes, as essential parts of existing lines, are permitted to remain in place.

7. MISCELLANEOUS:

- 7.1. Cleaning Up Construction Site: The Utility shall remove all temporary construction, rubbish, trash, surplus materials, and equipment within the right-of-way area and shall restore such area to a satisfactory condition.
- 7.2. Restoration and Maintenance of Various Elements of the Highway Facility:
 - 7.2.1. Where the County permits the installation of Utility facilities by the open trench method across a dirt or gravel surfaced State Aid road prior to construction of the base and pavement structure, the embankment, surface and sodding must be repaired and/or replaced to a condition satisfactory to the County Engineer.
 - 7.2.2. The Utility will maintain the highway facility for such length of time as is set out in the Utility Permit.
- 7.3. Compliance with Utility Industry Codes and Specifications: The specifications and standards set out in the Policy are recommended minimums. Utility industry standards and specifications which are higher than those set out herein shall govern in all cases.

OFFICE OF STATE AID ROAD CONSTRUCTION STANDARD OPERATING PROCEDURES			S.O.P. NO. SA II-2-8 Page 17 of 17
Subject: S.O.P. ACCOMMODATION OF UTILITIES ON RIGHTS-OF-WAY			Distribution A, B, C, D, E
EFFECTIVE July 1, 2005	ISSUED July 1, 2005	SUPERSEDES Page 17 of 17 S.O.P. NO. SAD II-2-8 EFFECTIVE: January 1, 1983	APPROVED J. Brooks Miller, Sr. STATE AID ENGINEER

- 7.4. Scenic Enhancement: The type and size of Utility facilities and the manner and extent to which they are permitted along or within highway rights-of-way can materially alter the scenic quality, appearance and view of highway roadsides and adjacent areas. For these reasons additional controls are applicable in certain areas including scenic strips, overlooks, rest areas, recreation areas, and the rights-of-way of sections of highway which pass through public parks and historic sites.

New underground utility installations may be permitted within such lands where they do not require extensive removal or alteration of trees or other natural features visible to the highway user or do not impair the visual quality of the lands being traversed.

New aerial installations should be avoided at such locations where there is a feasible and prudent alternative to the use of such lands by the aerial facility. Where this is not the case, they should be considered only where:

- 7.4.1. Other locations are unusually difficult and unreasonably costly, or are more undesirable from the standpoint of visual quality.
- 7.4.2. Underground installation is not technically feasible or is unreasonably costly; and
- 7.4.3. The proposed installation can be made at a location and will employ suitable designs and materials which give adequate attention to the visual qualities of the area being traversed.

These controls should also be followed in the location and design of utility installations that are needed for a highway purpose, such as continuous highway lighting, or to serve a weigh station, rest or recreational area.

**PERMIT APPLICATION
FOR CONSTRUCTION OR AJUSTMENT OF A UTILITY
WITHIN COUNTY ROAD RIGHT OF WAY**

COUNTY: _____

UTILITY NAME: _____

BY: _____
(Name and Company Title)

ADDRESS: _____

_____, herein called APPLICANT,

Proposes to construct _____
(Type of Facility)

within the road right of way or easement and hereby makes application to the County for the permit.

Project #, if applicable: _____

Along or across _____ Road, said facility to be
(Name of Road)

Installed between Lat. _____ N, Long. _____ W
(As determined from cell phone app or other hand held device)

And Lat. _____ N, Long. _____ W

Section(s) _____, Township(s) _____,

Range(s), _____. The Board of Supervisors (Board), by Order
dated _____, has appointed _____

as the Authorized Representative for review and approval of this Permit. A fee in the amount of \$250,
made payable to _____ County, if requested by the Board, is attached to this Permit
Application.

Also attached hereto are drawings showing plan and elevation views with horizontal and vertical dimensions shown in feet and inches from road centerline. The depth of bury below any pipe culvert, or other drainage structure, or ditch flowline, shall not be less than one foot six inches (1ft. 6in). The drawings, nor any part of this permit, will not be changed or altered without approval of the Board's Authorized Representative.

The Applicant agrees, if required by the Board or Authorized Representative, to comply with any applicable provisions of The Office of State Aid Road Construction's S.O.P. No. II-2-8, and agrees to perform the work in accordance with the applicable industry code and to the plans and specifications for the work.

The Applicant shall be responsible for future maintenance and repair of the facility and shall make adjustments to or relocate the facility when required for road widening, relocation or maintenance at no cost to the County unless otherwise agreed to by the Board. Any future maintenance or repair to the utility facility will require additional permitting by the County.

A general description and plan and profile of the size, type, nature, and extent of the Utility work to be done, and the specifications being used, including the traffic control plan, is shown below, (Use more sheets if necessary, or submit plans and specifications under separate cover). The traffic control plan shall be in accordance with the Manual on Uniform Traffic Control Devices (MUTCD):

The Applicant understands and agrees no right, title, claim, or easement to the road right-of-way is granted by the issuance of this Permit and if the Utility Facility is not placed within the horizontal and vertical limits as shown in this Permit, it will be adjusted to comply with same without cost to the County. The Applicant shall submit a surety bond, if required by the Board, in the amount of five thousand dollars (\$5000) for each one hundred thousand dollars (\$100,000) of estimated construction cost of the utility work. The bond must be secured through, and counter signed by, a resident Mississippi Agent representing the Surety Company. The bond will remain in effect for a period of one year after the work is completed unless earlier release is approved by the Board. Final acceptance by the County of all work performed, including any road construction and/or maintenance, will be established on the date of release of the bond.

The County agrees:

- (1) To cooperate with the Utility Company in every way to avoid conflicts in the location, construction, and maintenance of the County road and Utility Facility.
- (2) To pursue any and all legal means to see that the terms of this Permit are complied with.
- (3) If the Authorized Representative of the Board of Supervisors approves the plans and specifications submitted by the Applicant, he/she shall so indicate by signing and dating this Permit, and the Applicant may proceed with the installation; however, if the plans and specifications are not approved, he/she shall promptly notify the Applicant, and advise him/her of the reason or reasons. He/she will also act as the duly appointed representative of the Board of Supervisors and will give his/her approval to the completed work as being in compliance with the location and design shown in this Permit.
- (4) That any necessary road maintenance, construction or reconstruction caused by this utility installation, adjustment or relocation operations will be performed by the utility company, or it's contractor, to the standards acceptable and approved by the Authorized Representative prior to the road work being done, with the utility bearing all costs therefor.
- (5) Should any terms or provision of this Permit conflict with the laws of the State of Mississippi, or the United States, or impair or deny to the Applicant or the County any right protected thereby, it shall be deemed amended to conform to said laws.

WITNESS THE SIGNATURE OF THE APPLICANT on this the _____ day of _____, 20____.

By: _____

Utility Representative

Title: _____

24/7 Phone/Text # _____

Email _____

AGREED AND APPROVED BY _____ COUNTY on this the _____ day of _____, 20____.

By: _____

Authorized Representative

Title: _____

24/7 Phone/Text # _____

Email _____

Additional Sheet