

**CHAPTER 15**  
**WEIGHT RESTRICTIONS ON HIGHWAYS**  
**(POSTED HIGHWAYS)**

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## 15.1 INTRODUCTION

Many of the Commonwealth's older secondary and rural highways were not designed to support the traffic currently in use and permitted by law; consequently, many of these highways have been posted at a lower weight limit. The Commonwealth requires the hauler exceeding the posted weight limit, not the general taxpayer, to be financially responsible for excess maintenance on the highways they use. In this way, the Commonwealth can maintain its highway system for simultaneous use by all vehicles including those that exceed the posted weight limit.

This chapter applies to the posting of weight restrictions by the [Department of Transportation](#) or by Local POSTING AUTHORITIES with respect to highways under their respective jurisdictions based on the structural condition of the highway as authorized in [Pa 75 C.S. § 4902 \(a\)](#) and [67 Pa Code, Chapter 189, Hauling in Excess of Posted Weight Limits](#) and [67 Pa Code, Chapter 190](#), Letter of Local Determination.

This chapter does not apply to restrictions based on traffic conditions (Safety Posting) as authorized under [75 Pa C.S. § 4902\(b\)](#) and [67 Pa Code, Chapter 193](#) of the Vehicle Code, nor to bridges posted independently of highways as authorized under [67 Pa Code, Chapter 191](#).

All forms, publications, flow charts, check lists, and matrices referenced in this chapter may be found on the internet by selecting the hyperlink.

**Primary responsibility to conduct the operations from this chapter should include the District Posted and Bonded Coordinator and subordinate staff. In addition, support to continue the Posted and Bonded Program will include but not be limited to the District's Maintenance, Design, Permitting and Finance offices.**

## BRIDGE RESTRICTIONS

The District Weight Restricted Highways Program personnel shall coordinate with the Bridge Unit regarding the presence of any posted bridge weight restriction(s) that requires a permit under 67 Pa. Code, Chapter 191 and inform applicant / bondee accordingly.

## SPECIAL HAULING PERMIT (APRAS)

All oversize/overweight permits shall be issued in accordance with [67 Pa Code, Chapter 179](#) and the instructions contained in the *Special Hauling Permit Manual*.

A Special Hauling Permit, issued by way of the Automated Permit Routing and Analysis System (APRAS) to exceed the 80,000 pound legal load does not supersede the weight restriction of any posted highway or the requirement for entering into an [Excess Maintenance Agreement \(EMA\)](#). Every attempt shall be made to avoid weight restricted highways, if possible.

## DEFINITIONS

The following words and phrases when used in this chapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

**ACT** – [The Act of February 14, 2012, P.L. 87, No 13](#).

**AT-RISK INDUSTRY SECTOR** – Those industry sectors defined by the [Department of Labor and Industry](#) as having experienced a 20% or more decline in statewide employment between 2002 and 2011, and any additional industry sectors that the Department of Transportation determines, in consultation with the Department of Labor and Industry, to show evidence of economic decline. The term shall not include any industry which, after 18 months from the effective date of this Statement of Policy, the Department of Transportation determines, in consultation with the Department of Labor and Industry, no longer shows evidence of a 20% or more decline in statewide employment since 2002.

**DEPARTMENT** – the Department of Transportation of the Commonwealth of Pennsylvania.

**DE MINIMIS OPERATIONS** – the scale of hauling activity and nature of the business is not likely to cause damage to the route(s) based on the structural capacity of the route(s) and the availability and suitability of alternate routes in the region.

**EMERGENCY VEHICLE** – as provided by [75 Pa.C.S. § 102](#), or other vehicle designated by the State Police under [75 Pa.C.S. § 6106](#) (relating to designation of emergency vehicles by Pennsylvania State Police).

**ENGINEERING & TRAFFIC STUDY** – an orderly examination or analysis of physical features and traffic conditions conducted in accordance with PennDOT [Publication 46 Traffic Engineering Manual](#) and [Publication 212 "Official Traffic Control Devices"](#), and conforming to generally accepted engineering standards and practices for the purpose of ascertaining the need or lack of need for a particular action by the POSTING AUTHORITY.

**EXCESS MAINTENANCE** – means maintenance or restoration or both that is in excess of normal maintenance (but not improvements beyond the state of repair existing at the date of the initial inspection) that is necessary to maintain the roadway, shoulders, drainage facilities, and other appurtenances because of the use of overposted-weight vehicles.

**FREEZE/THAW PERIOD** – defined as the calendar period between approximately February 15th and April 15th, during which times the temperature results in changes (weakening) to the structural strength of the road surface. Additional restrictions may be required by the POSTING AUTHORITY due to severe weather and other unforeseen circumstances.

**HEAVY USER** – defined as a hauler that has substantial risk for causing excess damage to the road(s) over which they are traversing as a direct result of the number of over-posted-weight-vehicle loads; 30 loads or greater per day (15 loads or greater per day during the freeze/thaw period) and/or 600 loads or greater per year.

#### **INSPECTIONS AND ROADWAY CONDITION SURVEYS –**

1. **INITIAL INSPECTION** - Upon full execution of the EMA and prior to any hauling activity, an initial inspection shall be made. The inspection is used to determine the existing state of repair of the posted highway(s) and appurtenances together with the nature and extent of any repairs needed to correct any existing damage for which the USER will not be liable.
2. **INTERIM INSPECTION** – The POSTING AUTHORITY may, at its discretion, conduct periodic interim or re-inspections to determine the extent of any repairs for which the USER may be liable and require immediate attention and to ensure the damages do not exceed the amount of surety provided.
3. **FINAL INSPECTION** - A final inspection of the posted highway(s) and appurtenances will be conducted to determine the extent of any repairs needed to correct damages for which the USER may be liable.
4. **ROADWAY CONDITION SURVEY** – The POSTING AUTHORITY may conduct frequent, but less detailed surveys of the roadway to determine overall condition and identify any areas in need of repair. The survey will be performed when the type or volume of the hauling operation poses an increased risk of roadway damage or threat to public safety.

**IMPROVEMENTS** – upgrades beyond routine maintenance activities.

**INDUSTRY SECTOR** – A sector included in the [North American Industrial Classification System \(NAICS\)](#).

**LOCAL TRAFFIC** – local traffic is defined in [67 Pa. Code, Chapter 189](#).

**MAY** – indicates that an action is permitted but not required.

**MAINTENANCE ORGANIZATION** – refers to the PennDOT central, district, or county offices.

**NORMAL MAINTENANCE** – means the usual and typical activities necessary to maintain the roadway, shoulders, drainage facilities, and other appurtenances in the state of repair existing at the date of the initial inspection.

**OVER-POSTED-WEIGHT VEHICLE** – a vehicle or combination having a gross weight in excess of a posted weight limit.

**POSTING AUTHORITY** – the Department of Transportation (PennDOT), as to State designated highways, and all other state agencies and local authorities, as to streets/highways under their responsibility.

**PREVENTIVE MAINTENANCE** – means maintenance and restoration or both (including betterment with USER's consent) of a posted highway beyond and above excess maintenance.

**REGULAR USER** – defined as a hauler that has a moderate to low risk of causing damage to the road(s) over which they are traversing as a direct result of the number of over-posted-weight vehicle loads; less than 30 loads per day (less than 15 loads per day during the freeze/thaw period) and less than 600 loads per year.

**SHALL** – indicates that an action is required or mandatory.

**SHOULD** – indicates that an action is recommended but not required.

**SUPPLEMENTAL** – the application of adding or removing routes, bond amounts and for a company name change, if their Federal ID number remains the same. Other modifications will require a new agreement. (Utilizes [Form M-4902 APP "Application to Add or Remove Highway."](#))

**TRAFFIC ROUTE** – is a highway which has been assigned an Interstate, United States or Pennsylvania route number, consisting of three or fewer digits, to aid motorists in their travels.

**USER** – a natural person, firm, partnership, association, corporation, or government entity that is responsible for the operation of over weight vehicles on posted highways.

**UNCONVENTIONAL OIL AND GAS DEVELOPMENT** – The activities associated with unconventional oil or gas well construction including site preparation and reclamation, drilling, completion, and pipeline construction on oil and gas gathering pipelines, not including transmission and distribution pipelines. The term shall be read consistently with "unconventional formation" and "unconventional gas well" as defined in the Act. The terms gathering, transmission, and distribution pipelines shall be read consistently with the definitions of those terms in the federal pipeline safety regulations of the [United States Department of Transportation Pipeline and Hazardous Materials Safety Administration at 49 CFR §192.3](#).

**WINDSHIELD REVIEW** – as a best management practice, the POSTING AUTHORITY should make a brief drive-thru of the highway(s) under agreement(s) with bonded USER(s) periodically or on a typical cycle (i.e. monthly, quarterly, seasonally, etc.). Safety and mobility are concerns when observing roadway conditions beyond normal maintenance. No written reports are required if the highway is not in need of repairs. If excess damages are identified, a roadway condition survey or interim inspection should be considered. Windshield reviews shall not be billed to the USER(s).

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## 15.2 POSTING PROCEDURES

### ENGINEERING AND TRAFFIC STUDY

The POSTING AUTHORITY may recommend the posting of a highway and is responsible for approving the posted weight restriction.

**No highway shall be posted unless an Engineering and Traffic Study has been conducted and the documents are on file. Weight limits should be posted in 5-ton increments for uniformity.**

### CRITERIA FOR RESTRICTION

Traffic may be prohibited or restricted as deemed appropriate pursuant to an Engineering and Traffic Study. The criteria for an Engineering and Traffic Study are included in PennDOT [Publication 212](#). The [TE-109](#) Form (in Publication 46) is to be utilized for Engineering and Traffic studies establishing the weight restriction on highways.

## SEASONAL POSTING

Seasonal postings may be utilized in cases where the Engineering and Traffic Study and engineering judgment indicates permanent postings may not be necessary. However, the final determination will be the responsibility of the POSTING AUTHORITY.

## POSTING OF TRAFFIC ROUTES

The posting of traffic routes is discouraged. When a traffic route is posted, an alternate route should be established in accordance with [Publication 212](#).

## ORDINANCE REQUIRED BY LOCAL POSTING AUTHORITIES

Local POSTING AUTHORITIES in accordance with [75 Pa C.S. § 4901\(d\)](#) "Responsibility of Local Authorities" are required to adopt an ordinance prior to posting a weight restriction.

## ADVANCE NOTICE OF POSTINGS

The POSTING AUTHORITY should publish an advance notice of the posting by press release to target general circulation in the county in which the highway is located. The notice should be published granting sufficient time to extend the USER(s) an opportunity to choose alternate routes or to obtain appropriate permits from the POSTING AUTHORITY. This notice should be published a minimum of five business days prior to the effective date of the posting. Additionally, the POSTING AUTHORITY should contact any known USER(s). If active hauling operations are causing deteriorations to the roadway, signing for posting the weight restrictions may be posted immediately without prior notice. Any published public notice should state the weight restriction and appropriate legal authority, either [75 Pa C.S. § 4902\(a\)](#) or [\(b\)](#).

## NOTIFICATION OF LAW ENFORCEMENT AGENCIES

In order to enhance state and local law enforcement agency(s) involvement, the POSTING AUTHORITY shall forward written notification of the items shown below to the appropriate Agency's Office or Headquarters.

1. Each new posting
2. At periodic intervals (no less than quarterly), a printout listing.
3. Local traffic that has been determined as likely to damage the highway and that is now required to enter into an EMA.

## ENFORCEMENT OF POSTED WEIGHT LIMITS

The USER is responsible for the posted highway to determine if any over weight vehicles are violating the posted weight limit. The POSTING AUTHORITY shall report possible violations to the appropriate law enforcement agency for enforcement.

## CHECKLIST FOR POSTING

1. Anticipate influx of heavy hauling or observed roadway damage.
2. The POSTING AUTHORITY identifies need for a weight restriction.
3. Engineering and Traffic Study is conducted and documented using [TE-109](#) Form.
4. The POSTING AUTHORITY determines posted weight limit and/or considers a seasonal posting.
5. POSTING AUTHORITY approves posting.
6. Local ordinance adopted, if applicable.
7. Known USER(s) contacted concerning entering into an EMA or choosing an alternate route.
8. Public notice should be placed in press release.

9. Appropriate Law Enforcement Agencies notified.
10. Signs erected.

### 15.3 MODIFICATION/ REMOVAL OF HIGHWAY WEIGHT RESTRICTIONS

When the condition(s) that justified a posted weight restriction no longer exist due to construction of a highway upgrade, or change in other criteria, the POSTING AUTHORITY may modify or remove the weight restriction. To modify or remove a highway weight restriction, the POSTING AUTHORITY shall use the following process:

1. A Customer shall submit a written request, with justification, to the POSTING AUTHORITY (District Executive) for the evaluation of modification/removal of a weight restriction; or the POSTING AUTHORITY may identify posted highway(s) that meet the criteria for posting modification/removal. These criteria may include increased highway structural capacity due to an upgrade, highway performance history, and/or change in traffic conditions.
2. If a Customer requests a weight restriction be modified or removed, the POSTING AUTHORITY should acknowledge the request in writing within 15 calendar days of receipt and include an anticipated timeframe to evaluate the request. It will typically take up to 30 calendar days to complete an evaluation (i.e. an Engineering and Traffic Study) of a request, but factors such as inclement weather, seasonal considerations, POSTING AUTHORITY resource limitations, or ongoing construction may increase the evaluation time period. An Engineering and Traffic Study must be performed for each highway listed in the justified request. The POSTING AUTHORITY may determine the appropriate internal routing for review (i.e. Posting and Bonding Coordinator, Townships, and Boroughs) of the Engineering and Traffic Study.
3. If the identified highway(s) is (are) being considered for modification/removal due to an upgrade, the highway(s) must have been inspected and deemed to be acceptable per the approved construction plan and POSTING AUTHORITY specifications. The construction shall be accepted as documented by a final construction inspection in accordance with PennDOT [Publications 2](#) and [408](#). If final inspection and acceptance of construction has not been completed, the request for posting modification/removal shall be denied.
4. The POSTING AUTHORITY should consider how the posting modification/removal affects traffic on the entire route and intersecting routes (not just the requested location) in order to avoid “trapping” overweight vehicles on the route with no place to turn around. If the overall evaluation of the request identifies a location which might “trap” a USER, the POSTING AUTHORITY may elect to not modify the posting based on traffic operations or sign the affected highways accordingly.
5. An Engineering and Traffic Study ([Form TE-109](#)) shall be completed for the highway per the processes and methodologies outlined in [PennDOT Publication 46 \(Traffic Engineering Manual\)](#). This study must demonstrate the weight restriction could be modified or removed based on the Engineering and Traffic Study warrants covered in [Publication 212 \(Official Traffic Control Devices\)](#). Updated traffic counts and pavement testing (i.e. cores) may be required as part of the Engineering and Traffic Study. The pavement design life shall be in accordance with [Publication 242](#).
6. The POSTING AUTHORITY shall, within 15 calendar days of completion of the TE-109, determine and authorize the appropriate action and notify the Customer in writing. Pertaining to Department owned highways, the routing of the TE-109 shall include the Modification/Removal of Highway [Weight Restriction Form \(Form 4902RP\)](#) which must be signed by the District Pavement Manager, District Bridge Engineer, and the District Executive and kept on file with the TE-109. The RMS Coordinator shall update or remove the posted record in RMS.
7. Upon completion of the Engineering and Traffic Study and authorization to modify/remove the posting, the POSTING AUTHORITY shall:
  - A. Notify all current permittees on the affected highway(s), that the posting will be modified or removed.

- B. Publish an advance notice of the posting modification/removal by press release to target general circulation in the county the highway is located and adjacent counties as necessary. When possible, the notice should be published within 5 business days following close-out of the permit(s). The press release is a minimum and the POSTING AUTHORITY can make more targeted notifications at its discretion.
- C. Forward notification (i.e. the press release) to the appropriate law enforcement agency. Follow-up with the quarterly Pennsylvania State Police Posted Roads update.
8. Five (5) business days following the press release, POSTING AUTHORITY forces shall remove or alter the existing weight posting signs and/or erect new weight posting signs as necessary
9. Permit(s) to exceed the posted weight restriction should be closed out using the procedure outlined in Section 15.11. USERS should not receive a Final Inspection.

## 15.4 LOCAL TRAFFIC AND LETTERS OF LOCAL DETERMINATION

### SELF CERTIFICATION AS LOCAL TRAFFIC

Hauling activity may be self certified as local traffic if it meets the definition of local traffic in [67 Pa. Code § 189.2](#) and meets the provisions of [67 Pa. Code §189.3\(c\)](#). A Letter of Local Determination is not required for hauling activity which meets the requirements of the definition of local traffic. The Department may, at its discretion and upon review of a completed application, issue a Letter of Local Determination for hauling activities which meet the definition of local traffic.

### REVOCAION OF LOCAL TRAFFIC STATUS

In the event a Department investigation (conducted via a documented inspection) determines that damages are a result of local traffic hauling activities, the hauler may be required to cease hauling activity and enter into an EMA.

As described in [67 Pa. Code, Section 189.3\(b\)](#), Local Traffic;

*“Vehicles determined likely to damage highway. If the posting authority determines that one or more over-posted-weight vehicles are likely to damage the highway, the posting authority will so notify the registrants of the overposted-weight vehicles or owners of the destination or destinations, or both, and will also notify State and local police. After 2 business days following delivery of the notice, or after 5 days following mailing of the notice, such over-posted-weight vehicles shall not exceed the posted weight limits except in accordance with the provisions of §189.4 (relating to use under permit).”*

The [“Revoke Local Determination”](#) letter shall be used to notify the hauler. A copy of the Inspection report ([M-4902ISP](#)) must be attached.

### LETTERS OF LOCAL DETERMINATION

[Section 7 of the Act of February 14, 2012, P.L. 87, No. 13](#) required the Department to provide a methodology to issue Letters of Local Determination identifying particular vehicles, routes or uses as local in nature to provide exemption from the requirements of [67 Pa. Code, Chapter 189](#) (related to hauling in excess of posted weight limit). For clarity, note the exemption also applies to sections 15.4, 15.5, 15.6, 15.7, and 15.8 of this chapter. The methodology is intentionally required by law to allow an exemption for at-risk industry sectors. However, the exemption only applies to the regulations of 67 Pa. Code, Chapter 189 (relating to hauling in excess of posted weight limit) and does not apply to:

1. Roads and bridges posted pursuant to [67 Pa. Code, Chapter 191](#) (relating to authorization to use bridges posted due to condition of bridge),
2. [67 Pa. Code, Chapter 193](#) (relating to authorization to use highways posted due to traffic conditions),
3. [67 Pa. Code, Chapter 179](#) (relating to Oversize and Overweight Loads and Vehicles).

On May 12, 2012, the PA Bulletin published [67 Pa. Code, Chapter 190](#) providing the Department's Statement of Policy for issuing Letters of Local Determination for hauling activities related to at-risk industry sectors and hauling activities not likely to cause damage (de minimis).

### AT-RISK CRITERIA

As required by the Act, at-risk industry sectors are exempt from the requirements of [67 Pa Code, Chapter 189](#) and are eligible for a Letter of Local Determination. The Department of Labor and Industry has provided a list of at-risk industry sectors to the Department for use in this regard. A USER's hauling activity may be determined as at-risk based on the NAICS code and business activity of the company performing the hauling. Careful review and verification of the industry sector code shall be given to ensure the at-risk status is accurate and consistent with the available information at the time of approval. NAICS codes, based on an industry sector's primary business activity, can be identified at the [United States Census Bureau](#) website.

An at-risk Letter of Local Determination shall only be available on routes currently bonded by an unconventional oil and gas development company(s). If a particular route is not bonded by an unconventional oil and gas company, the USER may apply for a de minimis Letter of Local Determination, a Type-1, -2, or -3 Permit or self certify. A completed application is required prior to issuance of a Letter of Local Determination.

### DE MINIMIS CRITERIA

Hauling activity that cannot be self-certified, may qualify for a de minimis Letter of Local Determination if upon review of a completed application, the Department determines that the scale of hauling activity and nature of business is not likely to cause damage to the requested routes based upon the Department's review of the structural capacity and condition of the route, and suitability of alternate routes. De minimis Letters of Local Determination will only be considered for USERS who anticipate and request a limited number of moves by over-posted-weight vehicles.

To determine which routes are able to be authorized for a de minimis Letter of Local Determination, the existing pavement on each requested route must be reviewed to determine the minimum pavement structural number (SN) and corresponding remaining pavement life in terms of ESALS. An existing pavement SN is calculated and stored in RMS for each segment, or portion thereof, of all State Routes. The minimum SN throughout the route, or portion thereof, may be used to determine the remaining pavement life and available ESALS using AASHTO's DARWin software. The remaining pavement life is distributed over a 20 year period to determine the annual pavement life:

Annual Pavement Life (ESALS) = Remaining Pavement Life (ESALS)/20 years to determine the number of equivalent ESALS being requested by the USER on a particular state route, Table 7.1 from the Department's Pavement Policy Manual, [Publication 242](#), provides an ESAL conversion factor for each type of heavy truck. The number of loads must be multiplied by the ESAL factor (based on the type of truck) to determine the number of ESALS the hauling operation will incur for each route.

De minimis Letters of Local Determination may be issued on a particular state route(s) up to a cumulative threshold of 60% of the state route(s) annual pavement life. To protect the integrity of the state route network, the Department may also utilize additional evidences to determine the appropriate number of authorized loads/ESALS for each route as necessary. The Department may issue up to 10 loads/day per local letter. The guidance, by SR, for authorized loads is provided with the PDIF Reporting System.

### UNCONVENTIONAL OIL AND GAS

Hauling related to unconventional oil and gas **development** as defined in this chapter does not qualify for a Letter of Local Determination.

Hauling related to unconventional oil and gas industries may qualify for a Letter of Local Determination if, upon review of a completed application, the Department determines:

1. The hauling is not related to unconventional oil and gas development; and
2. The scale of the hauling activity is not likely to cause damage to the route(s) as demonstrated by qualifying as a de minimis USER.

## APPLICATION

Haulers may apply for a Letter of Local Determination by filling out [M-4902APPL](#), Application for Letter of Local Determination.

A completed application for a Letter of Local Determination shall contain the following information:

1. Type of business and industry sector code;
2. Type and weight of vehicle;
3. List of all roads (State Routes, by segments and offsets or intersecting roads) to be used on the hauling route;
4. Number and frequency of trips per day, week, and month;
5. Time of year and dates and duration of expected hauling;
6. Other evidence showing that the hauler is engaged in hauling for an at-risk industry for the duration of the hauling; and
7. Any other information the Department may require.

The Department will determine and acknowledge receipt of the application as administratively complete if it contains the necessary information and documents. Original signed applications or faxed or electronic copies of original signed applications are acceptable forms of submission. If the application is not administratively complete, it will be returned to the applicant with a written statement of what must be provided for administrative completeness. Returned applications will be deemed denied if not resubmitted to the Department within 15 calendar days. An administratively complete application is required prior to the issuance of a Letter of Local Determination.

In reviewing an application for a Letter of Local Determination, the Department may consider various factors, including but not limited to the following:

1. Protecting the integrity of the Commonwealth's highways;
2. Existing pavement strength, including the condition, thickness and age;
3. Existing average daily truck traffic;
4. Number and type of expected additional overposted-weight vehicles;
5. Impact of the freeze-thaw cycle, including whether hauling activities are planned during the calendar period between approximately February 15th and April 15th, during which times the temperature results in changes (weakening) to the structural strength of the road surface; and
6. Total expected loading and historical roadway performance.

The Department will only evaluate the haulers proposed routes based on the available state route network. Weight restricted municipal routes will not be evaluated by the Department. If the hauler's proposed route includes any weight-restricted municipal route, the hauler must contact the proper local authority(s) for permission to utilize the subject route.

The application must be reviewed and returned to the applicant noting the comments and actions of the Department within 20 calendar days after the application is received as administratively complete. The Letter of Local Determination does NOT require an administrative (permit) fee, excess maintenance agreement, or security. For all existing routes listed on [Form M-4902APPL](#), the existing weight-restricted permits must be closed out in accordance with the EMA prior to authorization and issuance of a Letter of Local Determination.

### Example:

Hauler A proposes to haul 3 tri-axle loads per day for 6 days per week over the next 12 weeks. The hauling takes place in July. The hauling is proposed on a section of posted highway with a minimum structural

number of 3.1. Is this hauling operation eligible for a Letter of Local Determination? What is the equivalent ESAL value of the total hauling operation? Is this hauling operation under the 60% annual pavement life ESAL threshold allowed for the de minimis Letters of Local Determination?

Solution: ESAL Factor for a tri-axle vehicle = 4.5  
 Equivalent ESAL value:  
 3 loads/day x 4.5 x 6 days/week x 12 weeks = 972 ESALs  
 60% of the annual remaining pavement life for SN = 3.1 is 33,000 ESALs.  
 972 ESALs is less than the 33,000 ESAL threshold.

Note: As long as the cumulative number of ESALs already authorized on this section of the route combined with the additional 972 ESALs is at or below the 60% threshold, this operation would be authorized under a Letter of Local Determination, pending the following factors: existing pavement condition, anticipated traffic volumes (new risks), historical roadway performance, and other available routes.

The application for a Letter of Local Determination (LoLD) shall be submitted by the hauler with sufficient time for the Department to review prior to the hauler's anticipated start date of operations. The application must be reviewed and returned to the applicant noting the comments and actions of the Department within 20 calendar days after the application is received as administratively complete. The LoLD does NOT require an administrative (permit) fee, Excess Maintenance Agreement, or security.

If an LoLD is approved by the District and the hauler has active weight restricted permits open on a proposed route, roadway repairs must be completed in accordance with the hauler's Excess Maintenance Agreement. Procedures for permit close out are highlighted in section 15.11 of this chapter.

The District shall allow 5 business days after the LoLD is issued before administratively closing-out the active permits.

## USE OF LETTERS OF LOCAL DETERMINATION

A separate Letter of Local Determination will be issued for the requested routes meeting the at-risk criteria and/or de minimis criteria. A single applicant/USER may qualify and receive both types of letters. A single Letter of Local Determination may only be issued for the individually authorized routes within a single County and may not be issued for an entire District. The Letter of Local Determination number (8 digits) shall be issued consistently with the direction provided in section 15.5 regarding Assignment of Permit Numbers.

The most current Letter of Local Determination, proof of ownership or authorized use of the vehicle, evidence pursuant to the requirements of [67 Pa. Code § 189.3\(c\)](#), and any additional documents required by the Department shall be carried in the vehicle at all times while traveling on the weight-restricted highways identified within the letter.

## CONDITIONS OF THE LETTER OF LOCAL DETERMINATION

The scope of a Letter of Local Determination will be based on the vehicles, routes and uses identified in the application. The Department may restrict the operation of vehicles and hauling for which a Letter of Local Determination is issued by time of day, date, location or use. Such restrictions will be specified in the Letter of Local Determination. The term of a Letter of Local Determination shall be no longer than 12 months from the date of issuance. The following standard conditions shall appear on all Letters of Local Determination:

1. This determination may be terminated at any time by the POSTING AUTHORITY in accordance with [67 Pa Code, § 189.3\(b\)](#) (Pertaining to vehicles determined likely to damage highway) if it determines that damages are attributable to the USER's activities or for fraud or abuse. If damage occurs as a result of the USER's activities, the USER will be notified and required to enter into an EMA to continue hauling activities on the weight restricted highway(s) identified in this determination. The POSTING AUTHORITY will revoke or revise the local determination of an at-risk industry USER when a route (s) is no longer bonded by an unconventional oil and gas company. When a Letter of Local Determination is revoked in full or in part, the POSTING AUTHORITY will provide written

notice to the USER and the Pennsylvania State Police indicating the nature and extent of the revocation, and all hauling activity identified on the revoked route(s) must cease within 10 calendar days of the date of notice. A revised Letter of Local Determination will be provided for the remaining authorized hauling activities. To continue hauling on the revoked routes, the necessary permit(s) will be required.

2. The USER may not exceed any maximum vehicle size or total gross vehicle weight limit that requires a permit under [67 Pa. Code, Chapter 179](#), any posted bridge weight restriction that requires a permit under [67 Pa. Code, Chapter 191](#), any posted highway weight limit that requires a permit under [67 Pa. Code, Chapter 193](#), or any other posted restrictions beyond what is specifically identified in this letter.
3. The original or a copy of this letter shall be carried in the vehicle at all times while travelling on the weight-restricted highways identified in this letter, along with a valid registration, lease or rental agreement(s) demonstrating the vehicle is owned/leased/ rented as proof of authorized use. In addition, evidence required by [67 Pa Code § 189.3\(c\)](#) (Pertaining to proof of local traffic status) shall be carried in the vehicle at all times. The following types of documents will constitute evidence that a vehicle is being operated in accordance with the terms of this letter:
  - A. A bill of lading, shipping order or similar document which shows a destination on the posted highway; or
  - B. Certification by the permittee or an official of a permittee company on the company letterhead describing the local traffic nature of the activity which the vehicle is engaged in.USER(s) not carrying the required types of documents noted above may be subject to fines and penalties.
4. Hauling authorized by this letter shall be prohibited during the calendar period between February 15th and April 15th unless a modification is specifically requested by the USER and approved by the Department. Additional restrictions may be required by the Department due to the highway condition, thaw period, severe weather, or emergencies. If additional restrictions or conditions are necessary, a note(s) shall be hand written and initialed under the last condition of the letter in this regard.

The Department should issue a Freeze/Thaw period reminder letter ([M-4902L17](#)) to each USER operating under the authority of a LoLD by **December 15th** of each year. This letter is to remind the USER of the Department's policy regarding LoLD operations during the Freeze/Thaw Period and the necessary actions the USER must take in order to continue to operate during the Freeze/Thaw Period.

### **ADD/DROP/EXPIRATION**

If the USER desires to add a route to their letter or if their letter has expired, a new application and review is required.

If a USER desires to remove or drop a route previously authorized by their letter or the route is no longer bonded by an unconventional oil and gas development company (at-risk letter only), routes, or portions thereof, may need to be removed or dropped from the Letter of Local Determination. In this event, the Department may alter the application as requested or as necessary and issue a revised letter with the same letter number and expiration date accompanied by a copy of the revised application. The letter effective date shall be altered to match the date of the new issuance.

### **REVOCAION OF A LETTER OF LOCAL DETERMINATION**

If the Department determines that any overposted-weight vehicle(s) or hauling activity for which a Letter of Local Determination has been issued is likely to or has caused damage to a posted highway, the Department may revoke the Letter of Local Determination in a manner consistent with the procedure provided in [67 Pa. Code § 189.3\(b\)](#) (relating to vehicles determined likely to damage highway).

An at-risk Letter of Local Determination will be revoked if all bonding by unconventional oil and gas development company(s) terminates on any route(s) authorized by the Letter. Nothing however, shall prohibit

the hauler from applying for a de minimis Letter of Local Determination. Any hauler who has had a Letter of Local Determination revoked may apply for a permit pursuant to the provisions of [67 Pa. Code, Chapter 189](#).

## 15.5 AGREEMENT AND PERMIT TYPES

### ALTERNATE ROUTE

If a reasonable alternate route conducive to the USER's operation is available, the USER must use the proposed alternate. Appropriate permit application and security will apply. Reasonable alternate route is defined in [75 Pa C.S. § 4902\(d\)](#).

[Publication 212](#) provides further guidance on conducting an alternate route study ([Form TE-114](#)).

### EXCESS MAINTENANCE AGREEMENT

Once the road is posted and a non-local traffic hauler wants to exceed the posted weight limit, they must enter into an [M-4902EMA](#) Excess Maintenance Agreement and obtain a permit in accordance with [Title 67 Pa Code, Chapter 189](#). The POSTING AUTHORITY shall decide the type of permit.

- An agreement can be processed on a geographic basis (e.g. district, county or municipality)
- All permits are state route, County and/or local road specific.

The agreement requirements, and links to the provisions and clauses, are included on this checklist. Individuals processing these agreements are encouraged to utilize this form and make it a permanent part of the agreement file.

**The process for PennDOT personnel shall be to compile the elements of the EMA as defined in this chapter. Only the original signed agreements, and all required exhibits, are to be forwarded to PennDOT's Office of Chief Counsel for review and approval. The EMA Routing Sheet must be completed, attached and entered into the Legal Approval Tracking System (LATS).**

### TYPE 1 PERMIT

A Type 1 Permit authorizes use of a particular posted highway, or portion thereof, by an over weight vehicle belonging to the USER, and it is valid only when carried in the over weight vehicle(s).

### TYPE 2 PERMIT

A Type 2 Permit authorizes use of a particular posted highway, or portion thereof, by an over weight vehicle, and it is valid only when conspicuously displayed at the USER's place of business. An over weight vehicle's bill of lading, shipping order or similar document (which shows the USER's place of business as the destination or departure point) issued as proof that the vehicle is covered under the USER's Type 2 Permit. This Permit is intended for a USER requiring pickups and/or deliveries by over weight vehicles and those vehicles are not under the USER's control. Normally, the vehicles in question belong to (or are hauling under contract with) customers or suppliers of the USER and would include such businesses as quarries, power plants and manufacturing.

### TYPE 3 PERMIT

A Type 3 Permit is valid only when carried in the over weight vehicle belonging to the USER. A Type 3 permit provides authorization for over-posted weight vehicle use of several specified posted highways, or portions thereof; however, a Type 3 permit is not issued providing blanket authorization to exceed posted weight restrictions throughout the county covered by the agreement.

A Type 3 permit should only be issued if it is determined there is minimum potential for damage to the posted highway(s) to be covered by the permit, because the USER anticipates a limited number of moves by over weight vehicles and short term use of the highway(s). The POSTING AUTHORITY shall enter into this type of permit only when it determines this option is feasible.

## USER'S RESPONSIBILITY WITH PERMIT

The USER is responsible for controlling its permit. The USER shall be allowed to make and distribute copies of its permit for vehicles owned/leased/rented to the USER.

## RIGHT OF ENTRY AGREEMENT

A "[Right of Entry Agreement](#)" is required where the POSTING AUTHORITY and the USER agree to make improvements for either of the following situations:

- If the highway is currently posted with a weight restriction, the Right of Entry Agreement can be used to establish the structural capacity prior to executing an EMA, or;
- The POSTING AUTHORITY's representative should propose to the USER(s) the possibility of utilizing a Right of Entry Agreement for rehabilitation of the structural capacity of the highway to that extent which would negate the need of a weight restriction and, therefore, negate the need for an EMA. There is, however, no guarantee that the highway will not be posted in the future if conditions warrant.

In circumstances where access is requested on a non-posted route to conduct repairs and/or reconstruction and a USER has an active EMA for that district, a supplement to the EMA "Additional Maintenance and Restoration" (M-4902EMAS) may be used to grant the USER access to the non-posted route right-of-way. M-4902EMAS is project specific and shall not be amended to include subsequent projects; subsequent projects require a new M-4902EMAS. For further clarification on M-4902EMAS see the SUPPLEMENTALS section below.

## SUPPLEMENTALS

**Application to Add or Remove Posted Highways-** The USER can supplement their EMA with the POSTING AUTHORITY by using the "[Application to Add or Remove a Section of Highway](#)." Supplements are to add or subtract routes, adjust security amounts and/or type, modify the Maintenance Plan and provide for updates of the USER's information. The Federal ID Number, for the agreement, cannot be changed. Other modifications will require a new agreement.

The "Application to Add or Remove a Section of Highway" is the letter amendment referred to in the EMA.

The POSTING AUTHORITY shall ensure the proper signature authorizations are in place. For the Department of Transportation Officials, Supplemental Agreement signature authority has been delegated to the District Executive. The District Executive may assign signature authority to the designee within their responsibility.

The following steps are required to add or remove routes for **all** permit types:

1. USER Completes an "Application to Add or Remove a Section of Highway." Original signed applications or faxed or electronic copies of original signed applications are acceptable forms of submission.
2. The POSTING AUTHORITY shall review the document for completeness, accuracy and to verify the surety amount covers the adjusted roadway mileage.
3. Questions concerning security or other documents should be forwarded to the appropriate legal counsel for review and advice.
4. Upon final approval of the agreement supplementation, the POSTING AUTHORITY shall conduct an initial inspection to add highways, and/or a final inspection, to remove highways. (If multiple USER(s) are present, all USER(s) may be invited to participate in the inspection.)
5. Department of Transportation Officials only - Maintain the information in RMS.
6. The POSTING AUTHORITY shall provide an [M-4902APR](#) "Approval Letter" to the USER.
7. The POSTING AUTHORITY shall issue new [M-4902A](#) "Authorization to Exceed the Posted Weight Limit" (Permit).

**Right of Entry to Non-Posted Highways-** The USER can supplement their EMA with the POSTING AUTHORITY by using the "Excess Maintenance Agreement Supplement- Additional Maintenance and Restoration." Supplements are to be used when the USER has an active EMA within that district and are to be used for repairs/reconstruction on non-posted routes. The Federal ID Number, for the agreement, cannot be changed. Other modifications will require a new agreement.

The POSTING AUTHORITY shall ensure the proper signature authorizations are in place. For the Department of Transportation Officials, Supplemental Agreement signature authority has been delegated to the District Executive. The District Executive may assign signature authority to the designee within their responsibility.

The following steps are required to utilize M-4902EMAS:

1. USER Completes an "EMA Supplement- Additional Maintenance and Restoration." Only original signed documents will be accepted.
2. The POSTING AUTHORITY shall review the document for completeness, accuracy and scope of work.
3. A Weekly Repair Log (Form M-4902WRL) shall be submitted to the POSTING AUTHORITY each Monday for the prior week if repairs have been completed. Provide one repair log per roadway.
4. Department of Transportation Officials only - Maintain the information in LATS for Office of Chief Counsel review, approval and signature.
5. M-4902EMAS is project specific and shall not be amended to include subsequent projects; subsequent projects require a new M-4902EMAS.

To differentiate individual supplementals, each supplemental is to be titled with sequential letters immediately following the agreement number (e.g., 290004A followed by 290004B, and so on).

## COOPERATIVE AGREEMENTS

The Cooperative Agreement allows the POSTING AUTHORITY to provide materials to a project being designed, bid and awarded by a private entity with private funds. The Cooperative Agreement includes additional clauses to allow the POSTING AUTHORITY to provide any range of materials to a project, to either expand the scope of a project (e.g., replace aging pipes), or utilize excess POSTING AUTHORITY materials within the existing scope of project. The recycling of existing materials within the project limits alone does not trigger the need for a Cooperative Agreement, but these materials are the POSTING AUTHORITY's property and the reuse of these materials must be approved by the POSTING AUTHORITY. POSTING AUTHORITIES are encouraged to work with private entities who are engaged in highway improvements, as partnering can be of mutual benefit in providing the best long term maintenance and cost savings to the POSTING AUTHORITY.

When using a Cooperative Agreement, several issues need to be dealt with:

1. If Commonwealth money or materials will be contributed, the entire project will be considered a "public work" project under the Prevailing Wage Act and the private entity will have to pay Prevailing Wages. The Prevailing Wage Act applies to any construction project where the total project amount exceeds \$100,000, even if the POSTING AUTHORITY's contribution is only a small amount. Contract provisions relating to Prevailing Wage compliance must be included in the contract as an exhibit.
2. In order to satisfy the legal requirements of competitive bidding, a sole source approval will need to be requested by the District and approved by Central Office before the private entity can be selected to perform the work.
3. The POSTING AUTHORITY will have set participation levels for minority business enterprises (MBE) and women business enterprises (WBE) and ensure compliance. New provisions for meeting MBE/WBE requirements are attached and will also be included in the contract as an exhibit.

The district fiscal staff shall establish a WBS element to track costs associated with a Cooperative Agreement.

Following the creation of the WBS element, the District Plant Maintenance Manager shall establish a RI notification and non-standard Plant Maintenance work order (type PMH2). The WBS element shall be used when creating the settlement rule for the work order. Additionally, the assembly on the work order shall always be "611980801" (support services by maintenance forces).

Should the material be an inventoried item, the inventoried material shall be issued to the work order to remove it from inventory. In addition, if a non-inventoried material (e.g., box culvert, etc.) is being provided, then the work order number shall be included on the account assignment tab of the purchase order. Furthermore, the work order shall capture the personnel and equipment expenditures for delivering the material(s) to the site.

In the situation where the Department agreed to provide construction inspection services; the construction inspector would charge the WBS element and applicable internal order (a.k.a cost function) on their timesheet. Furthermore, the construction inspector shall also ensure form M-805 (Record of Equipment Operation) is completed using the WBS element and applicable internal order to account for the travel expenses to and from the site.

### CONTRIBUTION AGREEMENTS

The Contribution Agreement allows a private entity to contribute funds directly to a POSTING AUTHORITY project. The contributed funds can be used to enhance an already scheduled POSTING AUTHORITY project, which will be designed, bid and awarded by the POSTING AUTHORITY in accordance with applicable POSTING AUTHORITY procedures.

The agreement allows for either a percentage or a flat amount. It is preferable to obtain a flat amount in lieu of a percentage, if possible.

The district fiscal staff shall establish a WBS element to track costs associated with a Contribution Agreement.

Following the creation of the WBS element, the District Plant Maintenance Manager shall establish a RI notification and non-standard Plant Maintenance work order (type PMH2). The WBS element shall be used when creating the settlement rule for the work order. Additionally, the assembly on the work order shall always be "611980801" (support services by maintenance forces).

Should the material be an inventoried item, the inventoried material shall be issued to the work order to remove it from inventory. In addition, if a non-inventoried material (e.g., box culvert, etc.) is being provided, then the work order number shall be included on the account assignment tab of the purchase order. Furthermore, the work order shall capture the personnel and equipment expenditures for delivering the material(s) to the site.

It is possible that some projects may involve federal aid. In such cases, the amount of 3rd party contributions shall be excluded from what the Department invoices the federal government. In this situation, Districts shall process all project transactions using the established federal aid WBS element. When the project is completed, District fiscal staff shall process an accounting adjustment (FV50), transferring costs equal to the amount of the contributions to "non-participating" on the WBS element. This will trigger an automatic payback of the federal funds or resolve any/most accrued unbilled costs, if the federal aid agreement was insufficient.

For budgetary purposes, we want to recognize the contribution as an augmentation, so the reimbursements are considered revenue. Per paragraph 6 of the agreement, District fiscal staff shall prepare an invoice (FB70) and submit it to the corporation for their agreed to share of the costs. When generating the invoice, use revenue code 4435293 (highway maintenance contributions) and also make sure the county cost center and fund is on the receivable document in SAP; this will ensure the reimbursement is credited to the county when it is received.

**ASSIGNMENT AGREEMENT**

Periodically it will become necessary to change the USER’s name on a particular agreement or multiple agreements. This is to be accomplished utilizing an [Assignment Agreement, Form M-4902AA](#). Multiple agreements can be assigned on one Assignment Agreement.

1. The Assignment Agreement is sent to the USER for original signatures.
2. The completed Assignment Agreement Letter is used to notify the USER the Assignment Agreement is completed.
3. Use the Routing Sheet designated for the EMA, and check the Assignment Agreement box at the top of form. Assign a new agreement number, and DO NOT use alpha characters.
4. Assignment Agreements are to be entered into LATS for tracking purposes.

**15.6 AGREEMENT AND PERMIT ADMINISTRATION**

The following procedure shall be used by Department of Transportation Officials and may be adopted by Local POSTING AUTHORITIES.

**ASSIGNMENT OF AGREEMENT NUMBER**

The agreement number is a six digit number (xxyyyy) where, the first and second positions (xx) are reserved for the legislative county code (i.e., 17 for Clearfield County, 32 for Indiana County, etc.). The third through sixth positions (yyyy) are reserved for a number assigned by the POSTING AUTHORITY (i.e., 0001 for the first EMA for that particular county, 0002 for the second EMA, etc.). A search in LATS is required to ensure the agreement number you wish to assign is not in use.

For the purposes of data entry in RMS, a two digit legislative designation number has been assigned for district-wide use as follows:

District 1-0 = 71	District 2-0 = 72	District 3-0 = 73	District 4-0 = 74
District 5-0 = 75	District 6-0 = 76	District 8-0 = 78	District 9-0 = 79
District 10-0 = 80	District 11-0 = 81	District 12-0 = 82	

**ASSIGNMENT OF PERMIT NUMBERS**

The permit number is an eight digit number (xxyyyyyy) where, the first and second positions (xx) are reserved for the legislative county code (i.e., 17 for Clearfield County, 32 for Indiana County, etc.). The third through eighth positions (yyyyyy) is reserved for number assigned by the POSTING AUTHORITY (i.e., 000001 through 999999).

- A permit number can be reused immediately upon termination of the original permit.
- The existing RMS Permit record must be deleted before the system will accept the re-use of a permit number.

**AUTHORIZATION**

Immediately after the EMA has been fully executed and the initial inspection completed, the POSTING AUTHORITY may forward a Permit, Authorization to Exceed Posted Highway Weight Restrictions, to the USER for its signature and distribution.

**DEPARTMENT SIGNATURES**

Original hand written signatures from all parties are required for all legal agreements including Excess Maintenance Agreements, Upgrade Partnership Agreements, Contribution Agreements, Cooperative Agreements, and Assignment Agreements.

Posted Highway Permits and Letters of Local Determination (LoLD) are forms authorization (not a legal agreement) and may be issued by the Department with either an original hand written signature, an electronic signature, or a stamp signature at the District’s discretion.

## **AGREEMENT RETENTION**

The POSTING AUTHORITY shall maintain each original EMA, and all supporting documents, during the time it is active and for an additional three years after the agreement is terminated. This retention requirement is for the legal documents only. The retention requirement does not apply to the RMS Sub-System data entry.

## **MULTIPLE USERS**

In those cases where multiple USERS exist, the POSTING AUTHORITY should first suggest to the USERS they attempt to reach an understanding among themselves as to the responsibility of cost sharing for each USER. Each individual USER is required to execute a separate EMA and if cost sharing is agreed upon in advance, it can be noted in an agreement with the POSTING AUTHORITY. Multiple USERS should be aware of the need to keep track of their tonnage hauled, vehicle types, load counts and dates of hauling.

In instances where excess maintenance damage occurs and has not been properly addressed, the POSTING AUTHORITY will contact the USERS to notify them of their obligations to fulfill their EMA and address the damages. If multiple USERS are present and responsibility of cost sharing is documented in an agreement with the POSTING AUTHORITY, the POSTING AUTHORITY will adhere to that agreement. If the responsibility of cost sharing is not documented, the POSTING AUTHORITY will notify each USER and request the USERS determine the responsibility amongst themselves. The POSTING AUTHORITY should propose the use of traffic volumes as a reasonable basis to share costs among USERS.

The POSTING AUTHORITY shall allow the USERS to determine the percentages of responsibilities themselves. It is advisable not to be present during this phase of negotiations. During the course of negotiations, one or more of the USERS may propose alternatives to traffic volumes. If this situation occurs, the POSTING AUTHORITY shall clearly state the POSTING AUTHORITY does not oppose workable alternatives and is concerned only with the protection of highway facilities.

In the event that the USERS cannot reach an understanding on the assignment of responsibilities among themselves the POSTING AUTHORITY shall assess each USER in direct proportion to their percentage of the total traffic generated under agreement. If any EMA permit(s) are suspended because of excess maintenance damage and/or delinquent invoices, only the USERS who fulfill their obligations to the POSTING AUTHORITY will have their permit reinstated to continue operations.

Whenever one of the multiple USER(s) requests to terminate their participation in the co-bonded portion of the roadway, or an additional USER executing an agreement is added to the roadway; a roadway inspection must be performed to assess the total excess maintenance damage incurred to that point since the last inspection. Under Option A, all USERS are then billed for their appropriate share of the total damage costs; at that point, all damages and hauling figures are effectively reset to zero. Under Option B, to properly finalize the documented damages, the USER(s) would be required to repair the excess damages prior to being released from its contractual obligations. As a result, the POSTING AUTHORITY may require the immediate repair of damages before releasing a USER(s) or permitting additional USER(s) access to the roadway.

## **ENFORCEMENT OF EXCESS MAINTENANCE AGREEMENTS**

As a best management practice, the POSTING AUTHORITY should make periodic "windshield" reviews of the highway(s) under agreement. No written inspection reports are required for windshield reviews if repairs are not needed.

If a roadway is experiencing heavy use, a roadway condition survey should be completed in order to determine if the highway is showing signs of deterioration and if maintenance or restoration of the highway has been performed.

If maintenance Option "A" is selected it will be the responsibility of the POSTING AUTHORITY to repair excess damage and invoice the USER(s) for all costs associated with the repairs in accordance with the EMA.

If maintenance Option "B" is selected the following procedures apply to addressing excess damage:

If the highway is deteriorating, the POSTING AUTHORITY shall notify the USER in writing of its contractual obligations in accordance with the EMA, regardless if restoration work has begun or not. (Letter 1 - ["Five Day](#)

Notification of Repair)

When the USER or its contractor does not begin maintenance or restoration within five business days of written notification, the POSTING AUTHORITY may at its discretion invoke the remedies as stated in the EMA. (Letter 3 - [“Excess Damage – Permit Suspension”](#))

The USER must complete the roadway repair and/or reimburse the POSTING AUTHORITY before the permits are reinstated. (Letter 6 - [“Permit Reinstatement”](#)) The POSTING AUTHORITY should notify the appropriate law enforcement agency of the suspension until the USER satisfactorily fulfills its obligations.

The following considerations should be included (but not limited to) in evaluating a reinstatement of a suspended permit:

1. Have all concerns regarding motorist safety been addressed?
2. Will the presence of permitted vehicles negatively impact safety?
3. Have all repairs initially identified as safety concerns, been satisfactorily completed?
4. If temporary repairs were made, has a schedule for permanent repairs been established?
5. Have repairs sufficiently improved the structural capacity of the roadway to support heavy loads for an extended period?

The POSTING AUTHORITY, at their discretion, have the authority to withhold reinstating permits until the roadway improvements can be completed to eliminate any of the above concerns. This may involve waiting for permanent repairs to be completed, or waiting for weather conditions to improve to minimize any concerns. The roadway may also be closed to all traffic, or to all truck traffic, if the POSTING AUTHORITY determines this is necessary, until repairs are made.

Restoration of the roadway to the pre-bonded condition (the condition at the time of the initial inspection) is only necessary when the permit is set to expire, or a request to close is received. The POSTING AUTHORITY may allow minor deterioration to exist when reinstating the permit. All damage repairs must be completed when a permit is closed out. Restoration to the pre-bonded condition does not necessarily require the POSTING AUTHORITY to reinstate the permit if imminent damage is expected when over-posted weight hauling is reinstated.

If roadway conditions require suspension of a permit the suspension will apply to all haulers with existing permits. No additional permits may be issued for use on a section of roadway that is currently under suspension due to roadway conditions until adequate repairs are made.

If the USER is unable to maintain or repair the highway and the damages have exceeded 75% of the original security, the POSTING AUTHORITY may request additional security from the USER based upon the repair estimates in addition to the original security/bond. The additional security should be returned to the USER when the repairs are satisfactorily completed.

Under emergency situations as determined by the POSTING AUTHORITY (at its discretion) to be hazardous to the public, the POSTING AUTHORITY shall provide telephone notification with instruction to initiate corrective action immediately (**within 24 hours**). The telephone notification should be properly documented. The initial notification shall be followed-up in writing (Letter 2 - [“Excess Damage – Immediate Repairs Needed – Suspension of hauling operations”](#)). If the USER fails to comply, the POSTING AUTHORITY shall complete repairs and bill the USER for all costs associated in correcting the deficiency.

The POSTING AUTHORITY should conduct onsite inspections of projects being performed by the USER or its contractor to insure that materials and work meet Department of Transportation standards and specifications.

Thirty (30) days after the suspension the POSTING AUTHORITY will notify the USER and its surety, in writing, that the permit has been revoked and a final inspection will be conducted. (Letter 4 - [“Excess Damage – Permit Revocation”](#)) Both parties may attend this inspection; however, failure of either the USER and/or its surety to attend the final inspection shall not discharge either party from its contractual obligations. If the

USER fails to comply with the provisions set forth in the agreement and has concluded its operations on the particular highway covered by the agreement, the POSTING AUTHORITY has the option of rescinding the USER's permission to haul over weight vehicles traversing any posted highway under the EMA, "Remedies" subsection (d). (Letter 5 – "[Termination of Excess Maintenance Agreement](#)")

## 15.7 MAINTENANCE AND RESTORATION RESPONSIBILITY

The next step is to determine the method of maintenance and restoration. Maintenance and restoration may be completed by:

1. The POSTING AUTHORITY and/or its contractor (Option A) or
2. The USER and/or its contractor (Option B).

### LEVEL OF MAINTENANCE

Once the responsibility for a posted highway is determined, the next step shall be to clearly define the level of maintenance and restoration to which the USER shall be held liable. The USER may request one of the following:

1. Maintain the highway to a level consistent with the existing road type as established at the time of the initial inspection
2. Maintain the highway to a level lower than the existing road type as established at the time of the initial inspection and, at the termination of the agreement, restore the highway to a level consistent with the existing road type as established at the time of the initial inspection. No paved surface shall be permitted to revert to a gravel, dirt or mud surface.
  - A. Department of Transportation acceptance requires the District Executive's approval.

The final determination of the level of maintenance and restoration shall be made by the POSTING AUTHORITY.

When damage to an at-grade railroad crossing on a posted state route is due to over-the-posted weight hauling activities, the POSTING AUTHORITY has the authority under the EMA to require the USER(s) to repair this damage subject to approval by the railroad which owns the railroad and, when alterations are necessary, the [Public Utility Commission \(PUC\)](#).

Generally, at-grade highway-railroad crossings involve joint occupancy of the right-of-way by the Railroad and PennDOT or Local Government. Therefore, PennDOT does not have sole jurisdiction of the at-grade railroad crossing on state roads. In fact, the at-grade railroad crossing is under the jurisdiction of the PUC. The PUC, by order, consistently requires the railroads to maintain the crossing to a point 24" beyond each outside rail. PennDOT's [Publication 371](#) addresses the division of maintenance responsibility in Section 7.04. PennDOT maintains the highway on crossing approaches and the railroad maintains the highway crossing surface within 24" of the outside rails. In order to repair the damage to an at-grade railroad crossing, the USER(s) must work directly with the company which owns the railroad and, when alterations are necessary, the PUC. Per PennDOT's [Publication 371](#) (Grade Crossing Manual), Section 2.01:

*No alteration shall be made to any public highway-railroad crossing without first obtaining approval from the Public Utility Commission (PUC). The PUC has exclusive jurisdiction over the construction, relocation, suspension and abolition of public highway railroad crossings. [66 Pa. C.S. §§ 2702-04](#).*

If the work required to repair the at-grade railroad crossing is simply restoring it to its original condition, the PUC does not need to be consulted. If in doubt, the District grade crossing engineer/administrator should be consulted to determine if PUC approval is required for the repair work.

If damage to an at-grade railroad crossing as a result of over-the-posted-weight hauling activity is discovered via a roadway condition survey or by any other manner, this damage shall immediately be reported by the District to the USER via letter. The District shall utilize the process and excess damage enforcement template letters as outlined in this chapter. For at-grade railroad crossing damage enforcement, these template letters

may be altered as necessary to fit the situation. The railroad company and the PUC shall be copied on any excess damage enforcement letters sent to the USER.

## 15.8 ROADWAY INSPECTIONS

Inspections shall be made in order to determine the condition of the portion(s) of the posted highway(s) and appurtenances. All permittees are to be notified and invited to participate during an initial and final inspection and at a minimum [Title 67, Chapter 189.4](#) requires "All Type 1 and Type 2 permittees on a posted highway or portion thereof will be notified of all inspections and reinspections on the highway or portion, and may participate in the inspections and reinspections." The inspections should be conducted jointly by the POSTING AUTHORITY and the USER; however, the absence of the USER shall not prevent the inspection from being conducted. Verbal notifications are acceptable. (If a verbal notification is made a phone log shall be kept and all parties must also be notified.)

The POSTING AUTHORITY shall prepare an inspection document describing the condition of the posted highways(s) and appurtenances together with the nature and extent of any repairs needed to correct any existing damage for which the USER may be liable. All initial and final inspections shall be documented on video and photographs may also be used to support the inspection findings. A permit may be issued at time of inspection however the USER shall receive a copy of the inspection report with the next invoice. If more than one USER is involved in an inspection of the same section of highway at the time/date, the inspection costs shall be divided equably among the USERS. (See 15.8 Cost Recovery)

Inspectors should schedule inspections based upon their own availability and coordinate with USERS.

The documents along with any video and photographs (if taken), of the initial inspection, shall be placed in the agreement documents file. The USER shall pay all costs associated with the inspections and roadway condition surveys. An Inspection Form has been developed and must be used by Department of Transportation Officials. Municipal Officials may use this form ([M-4902 ISP Inspection Form](#)) at their discretion.

The USER should not be liable for any existing damage to the posted highway unless this damage can be thoroughly documented.

### INSPECTIONS AND ROADWAY CONDITION SURVEYS

**INITIAL INSPECTION** - Upon full execution of the Agreement and prior to any hauling activity, an **initial inspection** shall be made. The inspection is used to determine the existing state of repair of the posted highway(s) and appurtenances together with the nature and extent of any repairs needed to correct any existing damage for which the USER will not be liable.

**INTERIM INSPECTION** - The POSTING AUTHORITY may, at its discretion, conduct periodic interim or re-inspections to determine the extent of any repairs for which the USER may be liable and require immediate attention and to ensure the damages do not exceed the amount of surety provided. See Section 15.7 of this Chapter for guidance on increasing Security.

**FINAL INSPECTION** - Upon written notification from the USER, a final inspection of the posted highway(s) and appurtenances will be conducted to determine the extent of any repairs needed to correct damages for which the USER may be liable.

Upon request by the USER, the POSTING AUTHORITY shall forward a copy of the inspection report(s) to the USER together with the invoice.

**ROADWAY CONDITION SURVEY** - The POSTING AUTHORITY may conduct frequent, but less detailed reviews of the roadway to determine overall condition and identify any areas in need of repair. The survey will be performed when the type or volume of the hauling operation poses an increased risk of roadway damage or threat to public safety.

1. The Roadway Condition Survey may be utilized to supplement windshield reviews or interim inspections.

2. The USER shall be billed the cost of any roadway condition surveys. (District/ County personnel shall consult the District Fiscal Officer to obtain the latest SAP Circular Letter for guidance in determining actual costs.)
3. USER(s) requesting copies of the Roadway Condition Surveys shall be forwarded the instructions to the Bonded Roads Condition Survey Guest Access to view the reports online.

### Inspection Procedures

1. General
  - A. The POSTING AUTHORITY will schedule and conduct an initial inspection within fifteen (15) calendar days after the USER's EMA has been executed and a completed Application to Add or Remove a Section of Highway, [Form M-4902APP](#) has been submitted. Exceptions to the fifteen (15) day timetable for the inspections include, but are not limited to adverse weather, holidays and District staffing/resources.
  - B. The USER shall be notified when Inspections; are to be made. This ensures both parties of protection if disputes arise.
  - C. If USER is not present during any inspections indicate "not present" in signature block with POSTING AUTHORITY Representative's initials and date.
  - D. For liability purposes, all information related to inspections should be stored for 3 years after USER's operation has concluded along the corridor.
  - E. A copy of the inspection should be attached to each invoice for the USER to keep.

### Initial/Final

1. Video of both directions of the roadway shall be conducted.
  - A. Verbally annotate starting segment and offset.
  - B. Verbally annotate start/end of each section
  - C. Create folder with the following naming convention
    - 1) Agreement No., USER name, Video
    - 2) (i.e., 73-xxxx Chesapeake Appalachia video)
  - D. Store/file within folder above with the following naming convention
    - 1) Initial/Interim/Final Inspection
    - 2) Co, SR, Begin SEG/Off,/End SEG/Off, Date (i.e., Initial 41 0414 0020-0000 to 0100-0100 08-15-10) or (i.e., Initial 41 0414 0100-0100 to 0020-0000 08-15-10)
2. Photos
  - A. Photo each area of deterioration
  - B. Provide scale in each photo.
  - C. Create folder with the following naming convention
    - 1) Agreement No., USER name, Photo
    - 2) (i.e., 73-xxxx Chesapeake Appalachia Photo)
  - D. Store/file within folder above with the following naming convention
    - 1) Initial/Interim/Final Inspection

- 2) Co, SR, SEG/OFF,
- 3) Direction
  - a. ascending (A) or,
  - b. descending (D)
  - c. Date (i.e., Final 41 0414 0050-0130 A 04-15-11)
3. Documentation
  - A. Use the standard statewide inspection form ([M-4902ISP](#))
  - B. Provide all general information as noted at the top of the form
  - C. Describe each area of deterioration on the form
  - D. Note the presence of posted bridges in the Remarks block of the inspection form
  - E. Documentation should list all videos and photos associated with the inspection
  - F. Estimates of repair quantities or costs should not be included on the inspection form
  - G. Documentation should be signed at the day of the Inspection by both Representatives, POSTING AUTHORITY and if present, the USER.
  - H. Create folder with the following naming convention
    - 1) Agreement No., USER name, Documents
    - 2) (i.e., 73-xxxx Chesapeake Appalachia Doc)
  - I. Scan all documentation, store within folder above with the following naming convention
    - 1) Initial/Interim/Final Inspection
    - 2) Co, SR, Date (i.e., Initial 41 0414 12-23-09)
4. Storage
  - A. Video, photos, and documentation should be stored as stated above.
  - B. A copy of the inspection should be kept with the original agreement.

### Interim Inspections

1. Video is not required, unless repairs are extensive and incorporate a great distance of roadway.
2. Photos and documentation should be provided as stated above.

### Roadway Condition Surveys

ROADWAY CONDITION SURVEY – The POSTING AUTHORITY may conduct frequent, but less detailed, reviews of the roadway to determine overall condition and identify any areas in need of repair. A Roadway Condition Survey may be performed at any time when the type or volume of the hauling operation poses an increased risk of roadway damage or threat to public safety.

Roadway Condition Surveys shall be performed no less than once per 15 calendar days for all roadways bonded by Heavy USERS. Districts may increase the frequency of Roadway Condition Surveys at any time based on the season (Freeze/Thaw), roadway condition, or the hauling activity on the roadway. Districts may, at their discretion, reduce the frequency of Roadway Condition Surveys to no less than once per 30 calendar days for roadways having received a 3" structural overlay or greater type of treatment or upgrade.

1. The Roadway Condition Survey may be utilized to supplement windshield reviews or interim inspections.
2. If significant damage has been found, the USER(s) shall be sent a 5-Day Letter (Letter 8). Depending on the level of damage found, an Interim Inspection can be conducted. Roadway Condition Surveys shall be conducted at least weekly and may be conducted more frequently as needed to monitor repair status until completed.
3. The USER shall be billed the cost of any Roadway Condition Surveys. (District/ County personnel shall consult the District Fiscal Officer to obtain the latest SAP Circular Letter for guidance in determining actual costs.)
4. USER(s) requesting copies of the Roadway Condition Surveys shall be forwarded the instructions to the Bonded Roads Condition Survey Guest Access to view the reports online.

## 15.9 COST RECOVERY

According to form [M-4902EMA](#) Excess Maintenance Agreement (EMA), "The USER shall be liable for all costs of excess maintenance and restoration and all other expenses incurred pursuant to this Agreement including, but not limited to costs related to inspections, Roadway Condition Surveys and administration costs." These costs may include, but are not limited to: actual salaries, wages, travel, and other expenses of PennDOT employees and hired contractors or consultants. Windshield reviews, as referenced in Chapter 15 of the Maintenance Manual (Pub. 23) shall not be billed to the USER.

Activity:	Cost:	Number of USER(s):	Level:	Remarks:
Agreement Processing & Administration	Actual	Single USER	County WBS	All USERS
Initial Inspection	Actual	Single USER	Customer WBS	All USERS
	Actual	Multiple USERS	State Route WBS	All USERS
Interim Inspection	Actual	Single USERS	Customer WBS	All USERS
	Actual	Multiple USERS	State Route WBS	All USERS
Roadway Condition Survey	Average	Single or Multiple USERS	County WBS	Heavy USER(s) Only
Enforcement	Actual	Single USER	Customer WBS	All USERS
	Actual	Multiple USERS	State Route WBS	All USERS
Excess Maintenance Damage Repair	Actual	Single USER	Customer WBS	All USERS
	Actual	Multiple USERS	State Route WBS	All USERS
Excess Maintenance Repair Inspection	Actual	Single USER	Customer WBS	All USERS
	Actual	Multiple USERS	State Route WBS	All USERS
Plan Review	Actual	Single USER	Customer WBS	All USERS
	Actual	Multiple USERS	State Route WBS	All USERS
Activity:	Cost:	Number of USER(s):	Level:	Remarks:
Upgrade Construction Inspection	Actual	Single USER	Customer WBS	All USERS
	Actual	Multiple USERS	State Route WBS	All USERS
Final Inspection	Actual	Single USER	Customer WBS	All USERS
	Actual	Multiple USERS	State Route WBS	All USERS

In order to recover the costs, invoicing of the services provided by PennDOT must occur. A customer invoice must be created and posted in SAP. Roadway Condition Surveys will be invoiced between the 5th and 20th of each month for the preceding month's recoverable costs. Invoices for services other than Roadway Condition Surveys must be invoiced within 45 days of the service provided and include supporting documentation utilizing the standardized [Cost Report](#), to provide itemized actual expenditures by WBS element, order, and commitment item. The table below identifies the approved cost recovery activities. The guidance provided in the table should be used when charging activities on the Employee Payroll (C-63C); (C-65C) and Record of Equipment Operation (M-805) or Travel Expense Form (C-62).

### AGREEMENT PROCESSING AND ADMINISTRATION

Agreement processing and administration shall be charged to the applicable customer- level WBS element. This may include, but is not limited to direct costs for actual salaries and wages; including travel expenses for reviewing the EMA, reviewing and issuing over-posted-weight permits, and office or field meetings to discuss agreement and permit needs.

## INITIAL, INTERIM, AND FINAL INSPECTIONS

Districts and/or Counties shall create state route and customer-level WBS elements to track actual costs for Initial, Interim and Final Inspections. District, County, and/or consultant staff engaged in initial, interim and final inspections shall charge the applicable WBS element based on the table below. If a single USER is requiring an initial interim or final inspection (independent of the number of USERS currently utilizing the roadway), then one hundred percent (100%) of the inspection costs are billable to the USER. If in the rare instance there are multiple USERS requiring an initial, interim or final inspection concurrently, then the cost split shall be based on the percent of miles bonded by each USER.

The Districts shall use the Cost Report template to identify all costs. Using the commitment hierarchy in the template, total personnel expenditures shall be reported at the major object level (6100000). operating expenditures (63\*) shall be reported by commitment item.

## ROADWAY CONDITION SURVEY

Districts and/or Counties shall create WBS elements at the county-level to track actual costs for Roadway Condition Surveys to be used in annually updating the average cost rate. The guidance provided in the [SAP Circular Letter 2012-4](#) Weight Restricted Posted Highway Invoicing shall be followed. (Consult the District Fiscal Officer to obtain the latest SAP Circular Letter for guidance.)

District, County, and/or contracted staff engaged in Roadway Condition Surveys shall charge the applicable county-level WBS element(s).

**Districts that do not have sufficient in-house staff to perform Roadway Condition Surveys and have hired consultants to supplement in-house staff shall establish a consultant agreement or use an existing agreement in ECMS following the normal process. The District Fiscal Office must use the established "dummy" Marcellus Shale WBS element (example: T-0000009MSH-0220-612-2) when setting up the funding for the work order or part – this will act as a dummy line to hold the funding. The consultant firm shall invoice directly in ECMS based on county usage and send invoice backup at the county-level WBS element. Once the invoice has been approved in ECMS and posted in SAP; the District Fiscal Office may distribute the costs to the county-level WBS element (example: T-0SURVEY9MSH-0220-612-2).**

The Districts shall use the FB70 Weight Restricted Posted Highway EUP when generating monthly customer invoices associated with the Roadway Condition Surveys for Heavy USER(s). Roadway Condition Survey invoice amounts shall be calculated based on the length of bonded miles for each individual permit. For multiple USERS, it is necessary to allocate the costs using a cost allocation based on the total bonded miles. The following example provides a visual of how bonded miles and the associated cost allocations are determined.

**Roadway Length = 5 miles**  
**USER A: 5 miles**  
**USER B: 3 miles USER C: 1 mile**  
**Linear Miles = 5 miles**  
**Bonded Miles: 5+3+1 = 9 miles**  
**Percent Cost Allocation: USER A = 56% (5/9) USER B = 33% (3/9) USER C = 11% (1/9)**

## MULTIPLE ROUTES WITH SINGLE OR MULTIPLE USERS

When conducting multiple inspections on the same day; inspection staff shall charge their time and travel costs from their headquarters (HQ) to the first inspection site and charge their time and travel costs from the last inspection site to their headquarters to the last inspection site. Additionally, travel costs from site "A" to site "B" would be charged to the applicable WBS element for site "B." Travel costs from site "B" to site "C" would be charged to the applicable WBS element for site "C."

## ENFORCEMENT

Enforcement shall be charged to the applicable WBS element. Enforcement may include, but is not limited to the direct costs for actual salaries and wages when composing various enforcement letters (i.e., five-day

warning letter, suspension letter, etc.) and office or field meetings to discuss action plans to repair damage. If single USER, then one hundred percent (100%) of the enforcement costs are billable to the USER. If multiple USERS, then the cost split shall be based on the percent of miles bonded by each USER.

### **EXCESS MAINTENANCE DAMAGE REPAIR**

Every attempt shall be made to have the USER(s) complete repairs associated with excess maintenance damage. In the event that the USER(s) do not perform emergency repairs (i.e., repairs needed within 24 hours); the Department shall perform the emergency repairs, since the safety of the traveling public is at risk. If a single USER or "lead USER" is paying for the repairs, then one hundred percent (100%) of the repair costs are billable to the single or lead USER. Where multiple USERS are present, the costs shall be divided, based on the cost splits provided from the USERS. In the event that the USERS cannot agree on the cost split; the Department shall determine the appropriate cost split.

Department repair costs shall be tracked using a non-standard (type PMH2) Plant Maintenance work order. The applicable assembly in the reimbursable program (612) shall be used in the work order. Additionally, the applicable WBS element shall be used in the settlement rule in the work order.

### **EXCESS MAINTENANCE REPAIR INSPECTION**

Excess maintenance repair inspection shall be charged to the applicable WBS element. If a single USER or "lead USER" is paying for the inspection, then one hundred percent (100%) of the inspection costs are billable to the single or lead USER. Where multiple USERS are present, the costs shall be divided, based on the cost split; the Department shall determine the appropriate cost split as outlined in the MULTIPLE USERS section (page 15-19) of this chapter.

### **PLAN REVIEW**

Plan reviews for upgrade construction, excess maintenance damage repair, and any other work shall be charged to the applicable WBS element. If a single USER or "lead USER" is paying for the plan reviews, then one hundred percent (100%) of the plan review costs are billable to the single or lead USER. Where multiple USERS are present, the costs shall be divided, based on the cost splits provided from the USERS. In the event that the USERS cannot agree on the cost split; the Department shall determine the appropriate cost split as outlined in the MULTIPLE USERS section (page 15-19) of this chapter. All project plans submitted to POSTING AUTHORITY should be shared with the paving engineer and appropriate design authority.

### **UPGRADE CONSTRUCTION INSPECTION**

Upgrade construction inspection shall be charged to the applicable WBS element. If a single USER or "lead USER" is paying for the upgrade, then one hundred percent (100%) of the inspection costs are billable to the single or lead USER. Where multiple USERS are present, the costs shall be divided, based on the cost splits provided from the USERS. In the event that the USERS cannot agree on the cost split; the Department shall determine the appropriate cost split as outline in the MULTIPLE USERS section (page 15-19) of this chapter.

### **DELINQUENT ACCOUNTS**

Payment terms for invoices are 60 calendar days. On the 61st day, dunning notices are generated by SAP for unpaid invoices and mailed by the Bureau of Fiscal Management's Finance operations Division to the USER. The SAP BW AR: Aging Schedule is to be used by the District Fiscal Offices to monitor payments by the USER. The Bureau of Fiscal Mangement's Finance Operations Division will notify the Bureau of Maintenance and Operations when a delinquency exceeds 75 days.

### **DETERMINING ESTIMATED REPAIR COSTS**

The POSTING AUTHORITY may invoice the USER for the estimated cost of repairs using either the latest maintenance contract prices or the latest average monthly maintenance unit prices. These estimated costs shall be computed for all damages noted on the roadway condition survey, interim inspection and/or final inspection. The USER agrees to reimburse the POSTING AUTHORITY for all estimated costs. The POSTING AUTHORITY will provide a final invoice, or reimbursement for over-payment, when the actual maintenance and/or restoration work have been completed and actual costs are known.

## 15.10 AGREEMENT SECURITY AND INSURANCE

The USER shall be required to provide security in favor of the POSTING AUTHORITY in the amount specified in [67 Pa Code, Chapter 189](#) to assure compliance with the terms and provisions of the EMA. The security shall be incorporated in the EMA as an exhibit. Department of Transportation Officials must ensure the security documents are kept in a secure location.

The below listed forms are provided for the execution of Security. Use of these forms is required for all agreements entered into by the Department of Transportation and optional for local POSTING AUTHORITIES.

1. [M-4902LC](#) "Letter of Credit"
2. [M-4902PB](#) "Performance Bond" (requires "Power of Attorney" document)

The preferred sureties are performance bond or irrevocable letter of credit. If the USER is unwilling to provide either, an alternate form of security may be accepted at the discretion of the District Executive.

Districts are not required to have a letter of credit be issued by or confirmed by a Pennsylvania bank. Districts are able to accept letters of credit issued by Pennsylvania-based and non- Pennsylvania banks alike. This includes banks that are not located within the United States of America. This applies to [Chapter 189](#) when a letter of credit is utilized. The letter of credit does not need to be submitted to the Office of Chief Counsel for review. However, if the District has any questions, the Office of Chief Counsel is available for assistance.

Stipulations that shall be adhered to in any out of state/out of country surety include but are not limited to the following:

1. The letter of credit must state that if there are legal issues arising from the letter of credit then they will be resolved in a Pennsylvania court and grounded in Pennsylvania law.
2. Only the original letter of credit shall be redeemable by the Department without conditions or stipulations by the USER or their bank.
3. The original Letter of Credit shall have the option of being redeemable by mail, but if the original is mailed it must be insured to the full extent of the value of the letter.
4. The original Letter of Credit must be kept in a secure location by the Department.
5. The Letter of Credit must state that it conforms to ISP 98, which is a set of international protocols used by banks to issue and honor letters of credit.

### SELF-INSURANCE

This policy is for use by the Posting and Bonding, Highway Occupancy Permits, and Special Hauling programs.

A Permittee or USER may self-insure in lieu of purchasing an insurance policy. There is additional information a Permittee or USER must provide and requirements that must be met in order for PennDOT to accept self-insurance. These are outlined in the [Self-Insurance Application \(M-4902APPSI\)](#).

PennDOT will determine, based on the self-insurance application, if a Permittee or USER's proposed self-insurance program is acceptable on a case-by-case basis. The Permittee or USER will have to demonstrate they have sufficient assets to self-insure for the minimum coverage required - \$250,000 per person and \$1,000,000 per occurrence for bodily injury, including death, or property damage. PennDOT may require the applicant to set aside assets in reserve for minimal coverage. Additionally, the Permittee or USER must demonstrate they possess the expertise to manage a self-insurance program.

**Requests for self-insurance must be presented to the District Posted & Bonded Road Coordinator (or other POSTING AUTHORITY) or District Permit Manager, who will screen the applications for completeness. Incomplete applications will be returned to the applicant via the "[Returning of Self Insurance Letter](#)" [M-4902L15](#) to request additional information. When the application is complete, the District Coordinator or Manager will forward it to their Central Office Program Manager.**

Upon receiving a complete application, the Program Manager will forward it to a review committee in the Bureau of Maintenance and Operations (BOMO) consisting of the Traffic Engineering and Permits Section Chief, the Maintenance Technical Leadership Division Chief, and the Director of the Bureau of Maintenance and Operations. The committee will determine whether the applicant has the capability to self-insure. The Office of Chief Counsel will be consulted prior to a final decision by the review committee. If a Permittee or USER's self-insurance program is acceptable to the review committee the ["Acceptance of Self Insurance Letter" \(M-4902L13\)](#) will be sent notifying the Permittee or USER that they may utilize self-insurance for the three permitting programs.

PennDOT may refuse to accept self-insurance at its discretion and inform the Permittee or USER via the ["Denial of Self Insurance Letter" \(M-4902L14\)](#).

Once the self-insurance expires, after one year, the Permittee or USER must re-apply for self-insurance or provide a commercial general liability policy. Otherwise they will not be allowed to continue their operations until insurance is provided. Expiration dates will be tracked in Central Office via the ePermitting System.

If a Permittee or USER requests self-insurance for a subsidiary, PennDOT should confirm whether the subsidiary operates under the same or a different federal identification number. If it is a different number, the subsidiary is likely to be financially independent from the parent company. PennDOT must, therefore, review the subsidiary's own financial information and not that of the parent company.

When an EMA is submitted to the Office of Chief Counsel for execution, a copy of the applicable self-insurance letter must be attached in lieu of the ACORD insurance certificate.

High-Deductible Option: A Permittee or USER may choose to provide insurance with a high deductible rather than self-insurance. Under this approach, the Permittee or USER provides a typical insurance policy and submits a certificate of insurance showing the required occurrence-based general liability coverage. The certificate may show that the Permittee or USER has a high deductible—for example, for the first \$500,000 of liability. Under this type of policy, the insurance carrier is responsible for investigating and adjusting claims and will then seek reimbursement from the Permittee or USER for amounts under the deductible.

## RELEASE OF SECURITY

Upon written notification by the USER that his/her activity on the weight restricted highway has concluded and within forty-five (45) days, all associated invoices must be paid in full by the USER and all associated obligations must be satisfactorily completed before the security can be released and returned to the USER.

The M-4902C ["Release of Security"](#) form letter shall be used by Department of Transportation Officials. POSTING AUTHORITIES may use this form or may use an alternate document of their choice.

## TERMINATION OF SECURITY

To avoid using the POSTING AUTHORITY's funds to repair excess maintenance damages covered by such security, the POSTING AUTHORITY shall take the following action whenever a termination notice is received from either the USER or their bonding agent:

1. Immediately perform an inspection of the bonded road section to determine the costs for completing excess maintenance repairs. If the road cannot be repaired immediately, a thorough estimate of the repair costs shall be completed.
2. If the USER has not met their obligations, a formal submission shall be made by the POSTING AUTHORITY prior to the expiration date of the security. The contents of the formal submission must conform exactly to the requirements of the security. In most cases, this entails giving the bonding agent and the heavy hauler ten days written notice of the POSTING AUTHORITY's intention to present a claim, in addition to presenting the copy of the security certification statement to the bonding agent. The certification statement must be signed by the POSTING AUTHORITY and state that the hauler has failed to fulfill its' obligations under the agreement. This documentation must be submitted along with copies of invoices and work backup or a detailed estimate if the work has not been performed. If the hauler challenges the cost of repairs or if the bonding agent feels that the submission was not made in strict conformance with the security, the POSTING AUTHORITY will have an opportunity to correct any problems and retain the right to collect the security after it expires.

3. If the permittee has selected Option B (repair of the road by the hauler), the POSTING AUTHORITY shall give the hauler immediate notice that the road must be repaired. If the permittee does not repair the road to the POSTING AUTHORITY's satisfaction upon receipt of the notice, the POSTING AUTHORITY's remedies under the EMA shall be exercised, and the POSTING AUTHORITY should restore the roadway on its own.

### REPLACEMENT OF SECURITY

Periodically, the need may arise for a USER to replace the security associated with an EMA. If you are unsure of the validity of the security, please forward a copy of the proposed replacement to the Office of Chief Counsel for their concurrence. Department of Transportation officials are to use Form [M-4902SRS1](#) "Replacement/Retro-Active Replacement of Security" to effect the change in security. Local POSTING AUTHORITIES may use this form or may use an alternate document of their choice.

### INSURANCE

The following is required for all agreements entered into by Department of Transportation and optional for local POSTING AUTHORITIES.

In all cases where workers are on the highway and in those cases where the USER or its contractor performs the work, the USER must provide the industry standard certificate of insurance (ACORD). The coverage shall provide public liability insurance for bodily injury and property damage in minimum amounts of \$250,000 per person and \$1,000,000 per occurrence. The following language must be included on the ACORD Form; "Thirty (30) days advance notice must be provided to the POSTING AUTHORITY to cancel the policy before its expiration date except 15 days for non-payment of premium." The POSTING AUTHORITY shall be named as an additional insured. The certificate of insurance shall be incorporated in the EMA as an exhibit "H." Local POSTING AUTHORITIES may use this form or may use an alternate document of their choice.

If the USER cannot or will not obtain liability insurance coverage:

1. The POSTING AUTHORITY may refuse to issue an agreement.
2. Maintenance and restoration may be completed by the POSTING AUTHORITY and/or its contractor.

### SECURITY/INSURANCE EXPIRATION

Per the EMA, the USER shall keep their security and insurance current. In the event that the security or insurance is set to expire, the Department will notify the USER in writing ([Letter 8 - Notification of Excess Maintenance Agreement Security/Insurance Expiration](#)). If the USER does not provide an updated security or insurance by the expiration date, the Department will notify the USER of their permit suspension ([Letter 9 - Security/Insurance Expired – Permit Suspension](#)). The permit may be reinstated once the proper security or insurance is provided.

## 15.11 CLOSE-OUT PROCESS

In order for the USER to modify the posted state routes they are permitted on or to terminate their EMA altogether the following processes shall be followed.

### STATE ROUTE MODIFICATION/ SUBTRACTION PROCESS

Throughout the duration of the EMA the USER may wish to cease using, or modify the specific routes associated in their EMA. To accomplish this they shall notify the POSTING AUTHORITY via a completed [M-4902APP](#) form detailing the specific state routes and portions of the state routes on the form.

The State Route Use Modification/Subtraction Process is detailed as follows: The POSTING AUTHORITY will schedule and conduct a Final Inspection within fifteen (15) calendar days of the receipt of notification. Exceptions to the fifteen (15) day timetable include, but are not limited to, severely adverse weather and holidays.

In order to evaluate the roadway performance during inspections, the districts should check records for winter/out-of-spec work.

Upon a completed and satisfactory final inspection the POSTING AUTHORITY will sign the final inspection and cancel the permit(s) in RMS. The USER will no longer be responsible for road damage. Please note that the USER's permit for that road is no longer valid. The USER must cease travel on that specific posted road. Any violation of this may result in fines or notification to the Pennsylvania State Police.

If the final inspection determines that there is road damage and repairs and restoration are required, the following will occur. The "final" inspection shall become an interim inspection and will be billed as an interim inspection. When applicable, roadway condition surveys will continue and the associated security will not be released for the road at this time. Provided that the USER ceases travel on the roadway other than travel related to completing repairs, the following process will occur. The USER will be responsible for the road damages identified at this interim inspection, including any additional damages at these specific damage areas identified during the period between the interim inspection and the timely completion of the repairs. All excess maintenance repairs must have a repair schedule and scope approved by the POSTING AUTHORITY.

In some cases, excess maintenance repairs cannot be completed immediately because of inclement weather, unavailable contractors or materials, and other similar circumstances. In those instances, justification shall be provided with the repair schedule. In addition, there may be situations where this period may extend over the entire winter season. For situations that do extend over the winter season, all excess maintenance repairs must have a repair schedule and scope approved by the POSTING AUTHORITY before April 1. If the USER continues operating over-posted weight vehicles after the completion of the requested final inspection, the POSTING AUTHORITY shall consider the inspection an interim inspection, not a final inspection, and the USER shall be responsible for all excess maintenance identified in the subsequent final inspection.

The POSTING AUTHORITY may require the USER to perform interim repairs or more timely repairs when the safe travel of the public is a concern and may, as referenced in 67 Pa. Code, Chapter 189, request the USER to provide additional security in the amount equal to the damages identified in the final inspection. The USER will not be responsible for additional roadway damages that may occur at areas outside the specific damage areas identified in the interim inspection unless those additional roadway damages are determined to be caused by the repair of existing damages to the route and/or continued hauling by the USER that requested the final inspection. For Option A, the POSTING AUTHORITY will complete all repairs and bill the USER. For Option B the USER shall complete the required repairs and will notify the POSTING AUTHORITY when they have completed repairs. The Final Inspection will be scheduled and once completed the POSTING AUTHORITY will sign the Final Inspection. The process will then continue as described above.

Once Final Inspection has been approved, the POSTING AUTHORITY shall invoice the USER as described in Section 15.8 COST RECOVERY on or after the tenth (10th), but no later than the fifteenth (15th) of each month for all costs associated with route usage. If the USER has not paid in full within the current policy time, then the POSTING AUTHORITY will follow the delinquent account process.

Once all invoices are paid by the USER, the POSTING AUTHORITY will update or verify the surety amount to match the miles bonded. The POSTING AUTHORITY shall send an [Approval Letter \(M-4902APR\)](#) to the USER confirming approval within five (5) business days.

Once this process is completed the EMA is officially amended and the USER's obligations associated with these specific routes are complete. The POSTING AUTHORITY will issue a new permit for the remaining roads or sections of roads in the USER's EMA.

## **TERMINATION OF EMA**

When the USER wishes to terminate the EMA they shall notify the POSTING AUTHORITY via a completed [M-4902APP](#) form. A written notice of intent to terminate on company letterhead is acceptable, but the completed M-4902APP form shall be attached to any letter. All routes to be removed shall be listed on the form.

The POSTING AUTHORITY will follow all steps noted above for the route removal process in the EMA.

Once all invoices are paid by the USER, the POSTING AUTHORITY shall send an [Approval Letter \(M-4902APR\)](#) to the USER confirming approval which releases the Agreement and the [M-4902C](#) form with all related surety within five (5) business days.

## 15.12 MAINTENANCE PLANS

### General Objectives

The [Excess Maintenance Agreement](#) (EMA) specifies that a Maintenance Plan may be required and shall be considered physically attached to the EMA. The District shall determine if a Maintenance Plan ([M-4902MP](#)) is required.

The Maintenance Plan shall describe the USER's efforts to:

1. Maintain pavement to pre-existing condition
2. Ensure no deterioration of paved surfaces to gravel or mud
3. Maintain safe and passable road conditions
4. Prevent negative environmental impacts

### ELEMENTS OF A MAINTENANCE PLAN

All USERS shall complete all sections of the Maintenance Plan. In addition, Heavy USERS shall complete all information as noted (not required for Regular USERS).

#### 1. Contact Information

USER(s) shall provide contact information for one primary contact and at least one emergency contact (two preferred). USERS must provide administrative contact information for tasks such as invoicing, permitting, and maintenance. If Maintenance Option B of the EMA is selected, contact information for at least one PennDOT Approved Contractor must be provided in accordance with Publication 408. If applicable, Heavy USERS may also provide supporting Engineer information.

The following individuals represent the team of Support Services:

Company Name	Permitting Contact
Primary Contact	Maintenance Contact
1st 24/7 Emergency Contact	PennDOT Approved Contractor
2nd 24/7 Emergency Contact	Supporting Engineer
Invoicing Contact	

Heavy USERS under EMA Option B shall provide a list of anticipated sub-contractors and their support service contact information in Appendix A.

#### 2. Hauling Activity

A detailed description of the USER's hauling operation will assist the POSTING AUTHORITY in determining the potential truck traffic and impact on the roadways in question. The following information shall be provided:

- A. 6 MONTH ACTIVE HAULING OPERATIONS:** For all EMA Permits, provide the permit number, route number, begin segment/offset, end segment/offset, active hauling, and estimated loads. Routes which are not active in the next 6 months should be considered for close-out. As a best practice, heavy hauling operations should be coordinated with the District on a monthly basis or as directed.
- B. GENERAL HAULING EVENTS:** Provide a list of any anticipated hauling events in the District which may generate significant hauling activity for the USER's company. Hauling related to Unconventional Oil and Gas development (UOG) has a qualitative and disproportionate impact on roads and bridges and therefore UOG fracking activities must be confirmed with the District 3 to 5 days prior to starting. Heavy USERS must provide, in Appendix B, color maps of anticipated hauling routes (posted and non-posted roadways) to and from key generation and destination sites including anticipated phasing and weekly volumes.

### 3. Roadway Repair Strategies

All preventative and excess maintenance repairs shall be in accordance with [Publication 408](#). The Department may require plans, typical sections, or other information for any preventative or excess maintenance project. Projects over 500 feet in length including full width overlays of 3 inches or greater, full depth reclamation or any widening, shall require Road Upgrade Plans to be submitted to the POSTING AUTHORITY.

- A. **REPAIR STRATEGY:** Describe the strategy for maintaining the roadway to its pre-existing condition. Heavy USERS shall utilize Appendix C to provide typical repair sections and details.
- B. **ANTICIPATED REPAIRS AND UPGRADES:** Identify any anticipated repairs and upgrades planned for the next 6 months. Describe the process to provide advanced notification to the POSTING AUTHORITY for standard unplanned repairs and 24-hour emergency repairs. A Weekly Repair Log ([Form M-4902WRL](#)) shall be submitted to the POSTING AUTHORITY each Monday for the prior week if repairs have been completed. Provide one repair log per roadway.

**Written approval from the District Executive is required for placing bituminous pavement between October 31 and April 1. Heavy USERS must submit any "winter" typical sections in Appendix C. Note that stone or compacted subbase overlays are allowed if the existing roadway is stone or gravel or as approved by the District Executive.**

- C. **TRAFFIC PLANS AND DETOURS:** Describe the process for implementing and monitoring detours as well as Maintenance & Protection of Traffic (MPT) during roadway repairs and upgrades. Heavy USERS must provide a preapproved MPT contractor contact in Section 1 or Appendix A. Pennsylvania Typical Application (PATA) drawings must be utilized for MPT (see [Publication 213](#)). Any diversion from the PATA drawings must be preapproved by the District.

**All detours must be submitted at least 30 days in advance of implementation to allow for District approval and coordination.**

- D. **ADVERSE WEATHER HAULING:** Describe when and how to reduce the potential for road damage during freeze/thaw and wet periods.
- E. **LIMITING TRUCK TRAVEL:** Describe when and how to limit hauling during times such as peak hour traffic, special events, school bus-stops, and any other times.
- F. **MULTIPLE USERS:** Describe effort (when and how) for coordinating with other permitted USERS to maintain the roadway.
- G. **ADDITIONAL CONSIDERATIONS AND COMMENTS:** Describe any processes or concerns related to bridges, drainage, utilities, right-of-way, permits, E&S, environmental hazards, emergency response, spills, or any other special considerations. The USER is responsible for obtaining the necessary permits required by regulation for all aspects of hauling and roadway repair. Provide any general comments regarding the Maintenance Plan. Heavy USERS shall provide additional profiles, typical sections, and details in Appendix D as necessary.
- H. **MATERIAL USAGE & QUALITY CONTROL:** The POSTING AUTHORITY shall retain ownership of milled material, guiderail, etc., and shall have the final decision as to its usage. Heavy USERS must provide a Quality Control Plan including winter sources and waste disposal sites in Appendix E.

### 4. Roadway Signing Plan (Option for Bonded Route Heavy USERS)

A bonded route Heavy USER may submit a request for the approval of signs to aid in providing guidance to an operation destination. The use of the signs are to be in addition to and shall conform to the USERS route plans that also provide route guidance to drivers and haulers.

The request for adding signing along the bonded route is made by completing the Application for Roadway Signing ([Form M-4902ARS](#)). The completed application is to be included in the Heavy Users

Maintenance Plan and can be submitted in the Maintenance Plan submission or as an amendment. When possible, the application should be reviewed, comments provided, or approved within fifteen (15) business days. If signing is proposed to be installed on an un-posted roadway to assist with directing traffic on or to a posted roadway, a supplement to the EMA may be needed and the Office of Chief Counsel should be contacted.

Guidance for the installation and design of these signs is provided in [Publication 46](#), Chapter 2, Section 10 pertaining to Heavy User Posted & Bonded Roadway Signs. Upon approval, the USER will be authorized to install the signs within Department right-of-way. The signs must be manufactured by a Department approved manufacturer and the USER is responsible for the cost of maintenance, installation and removal of all approved signs specified in the application. The District may inspect the sign installation and locations and may invoice the applicant for the review. When the USER initiates the close-out process (outlined in Chapter 15.11), the signs shall be removed in coordination with the District.

### SUBMISSION SCHEDULE

To update or obtain additional information, the District may, at its discretion, request a complete or partial re-submission of the Maintenance Plan at any time. The District may require information in addition to the information requested by the Maintenance Plan form. Amendments to the Maintenance Plan may be submitted by the USER at any time.

At a minimum, Heavy USERS shall submit an updated and signed Maintenance Plan at least once every 6 months on or before October 1st and April 1st of each calendar year. However, Districts may accept a written notice from the USER if no amendments to the Maintenance Plan are required for the upcoming 6 month period (but not more than once per calendar year). Regular USERS shall submit an updated and signed Maintenance Plan at least once every 12 months at the District's direction.

### APPROVAL AND ENFORCEMENT

PennDOT considers the Maintenance Plan an essential part of complying with the Excess Maintenance obligations (including truck schedules, truck routes, and traffic generators). It is PennDOT's mission to ensure safety for all USERS and experience no deterioration of existing road and bridge conditions due to heavy truck traffic. In order to achieve this goal, an effective Maintenance Plan must be in place. If a complete Maintenance Plan is not received in a timely manner by promptly addressing a District's request for information or comments, the District may suspend the USER's permit(s) thus ceasing authorization for the USER to utilize the weight restricted highway(s).

If conditions cannot be maintained in accordance with the EMA, the hauling permit may be suspended until conditions are restored to the level agreed upon and as determined by the initial inspection.

- **[Letter 10 - Maintenance Plan - Acceptance Letter](#)**: The Acceptance Letter notifies the USER the submitted Maintenance Plan has been received and approved.
- **[Letter 11 - Maintenance Plan - 5 Day Warning Letter](#)**: Efforts shall be made by the District to contact and coordinate a Maintenance Plan submission with the USER. If the District has not received a Heavy USER Maintenance Plan or written notification within five (5) business days from the stated spring or fall deadline or any District comment letter deadline; Letter 11 may be sent certified to the USER warning all Permits issued under the EMA and supported by the Maintenance Plan will be suspended. Letter 11 shall be accompanied by documentation of previous correspondence including the initial request for the Maintenance Plan, and a phone call summary, or email. Letter 11 is to be issued only if the USER is unresponsive to previous correspondence and is at least five (5) business days past the most recent submission deadline.
- **[Letter 12 - Maintenance Plan - Permit Suspension Letter](#)**: If the USER is unresponsive or fails to comply within five (5) business days from the receipt of Letter 11, the District may issue Letter 12 to suspend all Authorization to Exceed Posted Highway Weight Restriction Permits under the USER's EMA. All previous correspondence shall accompany Letter 12 when issued. Letter 12 is to be issued only if the

USER is unresponsive to previous correspondence and is at least five (5) business days past the Letter 11 deadline.

If and when the USER has submitted a complete and acceptable Maintenance Plan, the POSTING AUTHORITY shall use [Letter 6 – “Permit Reinstatement Letter”](#) to reinstate all affected permits.

1. USER describes their process for repairs needed within 5 calendar days.
2. USER describes their process for periodic roadway inspections to maintain pre-existing conditions.
3. USER describes their process for maintaining the roadway to its pre-existing conditions.
4. USER describes their process for implementing Maintenance and Protection of Traffic during roadway repair and any assigned detours, if needed. All detours must be approved by the Department prior to implementation.
5. List the appropriate Work Zone Traffic Control figures (included in [Publication 213](#)).

### **15.13 DRAINAGE AND DRAINAGE MANAGEMENT**

All upgrade and maintenance activities shall be in conformance with the Storm Water Management policies, procedures and requirements as stated in [Publication 23, Chapter 8 “Drainage and Drainage Systems.”](#)

### **15.14 ENVIRONMENTAL PERMITTING/CLEARANCE CHAPTER 105/102 PERMITTING**

#### **CHAPTER 105 WATER OBSTRUCTIONS AND ENCROACHMENT PERMITTING**

PennDOT is the owner of the roadway, including any water obstruction or encroachments that may require permitting; as such, PennDOT shall be the applicant on all [Chapter 105](#) authorization/requests/permit registrations and permit applications.

Applications for authorizations/registrations/ permits can be prepared by the USER or their consultant, however a PennDOT representative or designee should review the application prior to submission to ensure accuracy and completeness.

“Completion Reports” as required by the permit shall be the responsibility of the USER. The USER should be directed to prepare these reports and submit them to DEP directly, following coordination with the District Office.

Generally, most projects (roadway maintenance, roadway reconstruction, culvert and bridge maintenance and replacement) should qualify for registration under GP-11. Efforts should be made to avoid project specific conditions or activities that would necessitate the submission of a Joint Permit Application (Small Projects or Regular) such as increases in the 100-year flood water surface elevation and wetland impacts exceeding 0.05 acres.

All requests for authorizations/registrations/ permits shall be submitted in paper copy to the DEP Regional Office’s Permitting and Technical Services Section in paper format. The JPA Expert System should not be used to process these requests (all Marcellus Shale related permit applications must be submitted in paper format).

Where permits other than General Permits are required, consideration should be given to advanced coordination with the DEP Regional Office and other agencies that may have involvement in the permit review process.

Where occasional flowage easements may be required to address backwater conditions resulting from maintenance or reconstruction projects, the USER is responsible for acquiring the required easements on behalf of PennDOT. The USER or their consultant should coordinate with PennDOT to develop a right-of-way plan for the required easements. Upon approval by PennDOT, the USER can negotiate with the individual landowners to acquire the easements. Once the easements have been acquired, they should be deeded over to PennDOT.

## CHAPTER 102 - EROSION AND SEDIMENT CONTROL, STORMWATER APPROVALS, AND PERMITTING

PennDOT is the owner of the roadway and as such shall serve as a co-permittee with the contractor for any required [Chapter 102](#)/NPDES permits. Therefore, if a NPDES or Erosion and Sedimentation permit is required the USER and PennDOT will be the applicants.

The USER shall be responsible for preparing all plans, submissions and permit applications for all Chapter 102 and NPDES related submissions. To the extent practical, the Districts should review plans and submissions prepared by the USER or their consultant to ensure consistency with PennDOT standards. Where permits are required, and where "as-built" plans are required pursuant to [25 Pa. Code, Chapter §§ 102.8\(k\) and \(l\)](#), the USER shall be responsible for preparing and certifying those plans in accordance with the regulations. The USER shall submit those plans to PennDOT prior to submission to DEP for acceptance.

Active coordination should be undertaken with the County Conservation District to proactively address any potential concerns before they adversely affect project schedules.

Efforts should be made to avoid activities that require permits under Chapter 102 and NPDES. Permitting requirements are as follows:

### Maintenance Activities:

1. A permit is not required for "road maintenance" activities as defined under Chapter 102 so long as the total area of earth disturbance does not exceed 25 acres. If the total earth disturbance associated with maintenance activities exceeds 25 acres, then an Erosion and Sediment Control Permit must be obtained.
2. Road maintenance activities are defined as earth disturbance activities within the existing roadway cross-section. The "roadway cross-section" has been defined at [25 Pa. Code § 102.1](#) as: "the original graded area between the existing toes of fill slopes and tops of cut slopes on either side of the road and any associated drainage features."
3. Activities such as paving (concrete or bituminous), concrete patching and oil and chip are not earth disturbance activities; however, other activities associated with paving may be considered earthmoving activities that qualify as maintenance activities if within the existing roadway cross section (as defined above). For example, maintenance activities may include support activities incidental to resurfacing activities such as minor vertical adjustment to meet grade of resurfaced area.
4. Under current DEP guidance, road maintenance activities include the conversion of currently unpaved roadways to paved roadways so long as all work occurs within the existing roadway cross section (as defined above). The paving itself, while a construction activity, is not an earth disturbance activity; however, the regrading of the roadway surface and placement of shoulder material for support (if either is required) are earth disturbance activities and would qualify as a road maintenance activities if within the existing roadway cross section.
5. A written Erosion and Sediment (E&S) control plan is required for earth disturbance activities and must be available on site even if a permit is not required. While these E&S plans generally do not need to be approved by the Conservation District, it is recommended that the Districts request that the company submit their plans to the County Conservation District for review and approval to ensure that the plans are consistent with regulatory requirements and include appropriate use of best management practices. This would help reduce the need for District staff to review the plans.

### Non-Maintenance Activities:

Activities that result in widening or otherwise expanding the existing roadway cross-section fall outside the definition of roadway maintenance and are subject to NPDES permitting requirements.

If the project results in less than one acre of earth disturbance activities, no NPDES permit is required; however a written E&S control plan is required. E&S plan review as discussed above should occur.

Projects that result in more than 1 acre of earth disturbance activities will require an NPDES permit regardless of discharge type.

The USER and District staff need to balance and consider the immediacy of the need to complete the work against the magnitude of the effort to be undertaken and the subsequent need for any permits, recognizing that more extensive projects will likely require permits and therefore take longer to implement. To address short-term needs, roadway activities should be limited to those necessary to maintain the existing roadway in a serviceable condition and focus on maintaining the existing cross section and surface. Any proposal to widen or otherwise upgrade the existing roadway for longer term improvements or upgrades may result in the need for NPDES permits which could cause a delay in project construction due to permit review times and the need to comply with various permitting requirements.

### **ENFORCEMENT ACTIONS DURING CONSTRUCTION**

District staff should advise the USER that, while PennDOT is named as the permittee and copermittee on the [Chapter 105](#) and [Chapter 102](#) permit applications, respectively, that PennDOT will hold the USER fully responsible for any permit or other violations that occur during the construction of any improvements for which the USER is in control. This includes any mitigation or restorative actions as well as any financial penalties that are imposed.

### **ENVIRONMENTAL COMPONENTS MATRIX FORM**

Form [M-4902EV](#) is to be completed by the USER who is proposing excess maintenance and restoration activities. Information provided in this document will be used by PennDOT to ensure that all relevant resources have been considered during the planning and design of the proposed work. This document is NOT intended to be used for environmental clearance or to replace current state permitting procedures. Once completed, this form is to be submitted to the appropriate PennDOT Office.

## **15.15 RIGHT-OF-WAY PROCEDURES FOR EXCESS MAINTENANCE WORK**

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### **BACKGROUND**

EMA USERS may be required to provide State highway right-of-way to PennDOT in connection with their obligations. It is important to complete these transactions correctly to insure PennDOT's new property interest is properly documented for the future. These transactions are similar to those where a highway occupancy permit (HOP) applicant is required to provide right-of-way to PennDOT as part of the HOP process.

The Districts should utilize appropriate resources within the District to accomplish these transactions, including, but not limited to, the right-of-way, utilities, plans, and bridge units as appropriate. The Office of Chief Counsel will assist with legal issues but is not a right-of-way acquisition unit.

Obtaining the necessary right-of-way is the responsibility of the USER. PennDOT will not acquire right-of-way for a USER.

If right-of-way other than occasional flowage easements is required, the district must coordinate with its District Right-of-Way Administrator and the Office of Chief Counsel, Real Property Division, which will coordinate with the Bureau of Operations and Maintenance as necessary. See Section 5, ACQUISITION OF RIGHT-OF-WAY OTHER THAN OCCASIONAL FLOWAGE EASEMENTS below for further guidance.

Following are some of the important right-of-way related issues:

1. Right-of-way plan requirements;
2. Deed forms and approval;
3. Title documentation;
4. Plot plans and deed descriptions
5. Other conveyance and recording procedures;

6. Title searches and title insurance/ certification;
7. Utility relocation or elimination issues;
8. Environmental issues.

An outline of the procedures is set forth below.

**RIGHT-OF-WAY PLANS**

A right-of-way plan, in PennDOT approved design format, is required where right-of-way will be conveyed to PennDOT. This serves several purposes, including documentation of the highway right-of-way for future use by PennDOT and others and a means to insure that appropriate right-of-way is acquired for the project. The right-of-way plan will generally be drafted by the consulting engineer/surveyor. The plan will be entitled Drawings Depicting Right-of-Way to be deeded to PennDOT, conform to the plans presentation requirements herein, and be reviewed by the appropriate Central Office Field Liaison Engineer. The District maintenance and right-of-way units should also review the plans.

The Drawings Depicting Right-of-Way to be deeded to PennDOT does not transfer title. The USER must transfer title to PennDOT by deed. The deed plan only documents the State highway right-of-way for future reference.

Deed plans must be filed with the District plans unit and forwarded to the Bureau of Project Delivery, Plans and Reproduction, for appropriate filing. Deed plans must also be recorded at the appropriate county courthouse to document the highway right-of-way after title has been transferred to PennDOT.

Where only a few properties are involved and the areas to be acquired are minor, the right-of-way plan can be a simple, one or two page plan that need not depict related proposed highway construction features. See [DM3, Chapter 3, Section 3.0.G \(Simplified Right-of-Way Plans\)](#).

The title page should provide as follows:

**Metric Example:**

DRAWINGS DEPICTING RIGHT-OF-WAY TO BE DEEDED TO THE  
COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION  
UNDER EXCESS MAINTENANCE AGREEMENT NO. \_\_\_\_\_  
BY \_\_\_\_\_ (NAME OF USER) \_\_\_\_\_  
FOR STATE ROUTE \_\_\_\_\_ IN \_\_\_\_\_ COUNTY  
FROM STA \_\_\_\_\_ TO STA \_\_\_\_\_ LENGTH \_\_\_\_\_  
FROM SEG \_\_\_\_\_ OFFSET \_\_\_\_\_ m TO SEG \_\_\_\_\_ OFFSET \_\_\_\_\_ m

**English Example:**

DRAWINGS DEPICTING RIGHT-OF-WAY TO BE DEEDED TO THE  
COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF TRANSPORTATION  
UNDER EXCESS MAINTENANCE AGREEMENT NO. \_\_\_\_\_  
BY \_\_\_\_\_ (NAME OF USER) \_\_\_\_\_  
FOR STATE ROUTE \_\_\_\_\_ IN \_\_\_\_\_ COUNTY  
FROM STA \_\_\_\_\_ TO STA \_\_\_\_\_ LENGTH \_\_\_\_\_  
FROM SEG \_\_\_\_\_ OFFSET \_\_\_\_\_ TO SEG \_\_\_\_\_ OFFSET \_\_\_\_\_

THIS PLAN PREPARED TO DOCUMENT THE RIGHT-OF-WAY FOR STATE HIGHWAY PURPOSES THAT WILL BE DEEDED TO THE COMMONWEALTH OF PENNSYLVANIA AS REQUIRED BY THE REFERENCED EXCESS MAINTENANCE AGREEMENT.

The right-of-way plans must contain an approval block for the Secretary of Transportation to approve the plan for himself and the Governor, as well as a District Executive approval and recording block. Appropriate personnel, such as the District Plans Engineer, District Chief of Surveys, District Permit Manager and/or District Right-of-Way Administrator, should review the plan prior to signature.

The right-of-way plans should be reviewed and approved before any deeds are reviewed and accepted by PennDOT. An exception may be made with the District Executive's approval. The plan should designate the property owners as they exist before the applicant purchases the necessary right-of-way. See Section 3, CONVEYANCE OF RIGHT-OF-WAY TO PENNDOT below on the conveyance process. Temporary construction easements are not to be shown on plans depicting right-of-way to be deeded to PennDOT because the permittee will not be conveying rights to PennDOT in such areas.

Please note that right-of-way plans submitted by consultants do not always correctly reflect the proper legal right-of-way lines. It is important to obtain and review the right-of-way plans on file in the District plans room, as well as straight line diagrams. The Right-of-Way Administrator may also be of help in this determination. See [DM3, Chapter 3, Section 3.8 \(Determination of Legal Right-of-Way Widths\)](#).

Please also note that consultants often show dedicated and ultimate right-of-way areas as legal right-of-way. This is not correct because until properly accepted by some government entity, the property owner still owns these areas subject to the offer of dedication. See Right-of-Way Manual, Appendix C, Article 10 (Dedications and Ordainments). See also [DM3, Chapter 3, Section 3.8 \(Determination of Legal Right-of-Way Widths\), subsection E \(Dedicated to Public Use by Owner\)](#) for the plans presentation by which PennDOT can accept dedications.

## CONVEYANCE OF RIGHT-OF-WAY TO PENNDOT

AMICABLE CONVEYANCE BY APPLICANT TO PENNDOT - Needed State highway right-of-way should be conveyed to PennDOT from the USER, usually in a single deed. That is, the USER must purchase any areas not owned by it and then deed it to PennDOT. The main reason for this requirement is to have the warranty of title be from the USER rather than an unrelated third party. Exceptions to this requirement have been made when the land is under the control of other government entities. For example, jurisdiction of Commonwealth-owned land can be transferred to PennDOT directly from other Commonwealth agencies by memorandum of understanding.

The right-of-way plan should be used to insure the correct areas are included in the conveyance. The plan will contain a numbered list of property parcels, identified by a circle (indicating that land is required from that parcel) or a circle inside a triangle (indicating no land is required). There will also be a Right-of-Way Information Block for each parcel for each property from which land is required, containing a tabulation of required areas.

**It is recommended that the District Right-of-Way Administrator be involved in reviewing the proposed deed in conjunction with the right-of-way plan. This review would include insuring that all required deeds have been provided and that each deed is properly executed and suitable for recording at the County Recorder of Deeds Office. It may be appropriate to have the applicant's attorney present at this review to answer questions where the conveyance is significant.**

**FORM OF DEED** - Use form [M-4902E \(Deed of Easement\)](#). The deed is interactive and may not otherwise be altered without review and approval of the District Right-of-Way Administrator. The District Right-of-Way Administrator should be consulted when completing the deeds. They are much like deeds used when PennDOT is acquiring right-of-way for a highway project.

The District can consult with the Office of Chief Counsel as appropriate. The deeds do not need to be approved as to form and legality because they are not being executed by PennDOT. If the District would like a deed approved as to form and legality, the deed should be entered into the Legal Approval Tracking System (LATS) and forwarded to the Office of Chief Counsel, Real Property Division.

**DOCUMENTATION OF TITLE** – The USER must provide an investigation of title to the property being conveyed based on courthouse records. That is, no deed may be accepted without documentation and review of the title through a record owner and lien certificate, an abstract of title or title report based on a title search. The purpose of these documents is to ascertain the history and present condition of the title with reference to liens, encumbrances, easements, etc., to determine if there is marketable title. This is a legal term meaning title that is free from reasonable doubt, can be sold or mortgaged, and will not expose the owner to potential litigation or conflicts regarding use or ownership of the land.

The title documentation may be from a title company or an attorney at law. A record owner and lien certificate is the best document but an abstract of title or title report is acceptable. The District Right-of-Way Administrator will be consulted to review the documentation for any title defects that must be cleared before the deed can be accepted by PennDOT. Such defects could include utility easements, liens of record, mortgages, etc. PennDOT must be identified as a beneficiary of the title work certificate.

The executed deed and title information must be reviewed and accepted by the District Right-of-Way Administrator prior to recording. A bring down/update of the title is to be provided within 15 days of signing the deed.

Title insurance to be paid for by the USER can be required but is not recommended. Under such a policy the title insurance company protects the insured from losses caused by defects in the title of the property which have not been excluded from coverage. PennDOT must be named as an insured or beneficiary to be protected. Examples of items not usually excluded would be losses resulting from title being vested in someone else, unmarketability of the title, and lack of the right of access to the land conveyed. As a practicable matter most policies exclude the defects that are problematic for PennDOT such as utility easements and liens of record and the existence of the policy may not even be discovered if a problem arises later unless some tracking system is established. The District would also be required to approve the amount of coverage based on the estimated value of the property being conveyed. There is also added cost to the USER to provide the insurance.

Please note that the title documentation need only apply to the property being conveyed to PennDOT. It does not need to cover the entire property. Documentation covering the entire property often causes undue problems by noting easements and other issues that do not apply to the property being conveyed. Limiting a record owner and lien certificate to only the property being conveyed is highly recommended.

**MORTGAGES AND OTHER LIENS AND JUDGMENTS** – Mortgages and other liens and judgments on the property should be released as to the area conveyed at the expense of the USER. This will insure that PennDOT is not included on foreclosures or other legal actions relating to the mortgage or other lien. With the approval of the District Executive, a deed may be accepted without release of a mortgage or other liens under the following circumstances: 1) the value of the land being conveyed is \$25,000 or less and the District Right-of-Way Administrator certifies that the land being conveyed is sufficiently minor that it does not materially affect the ability of the remainder of the property to provide security for liens and judgments. The USER must prove to the District that the value of land is \$25,000 or less based on the purchase price, an appraisal, or other documentation deemed acceptable to the District.

**PROPER EXECUTION OF THE DEED** – The information block and all blanks on the deed form should be filled in. The proper party must execute the deed on behalf of the USER. See Signature Authority Guide, Appendix F to the Right-of-Way Manual.

Plot plans and written descriptions – PennDOT right-of-way acquisition forms do not typically use metes and bounds descriptions, but rather use plot plans. This approach has been incorporated into the M-4902E deed form. A metes and bounds description is not required by Pennsylvania law and it is simpler to compare a plot plan to the approved right-of-way plan for accuracy than to have a metes and bounds description reviewed by the survey or other district unit for accuracy. Using only a plot plan avoids problems with discrepancies between a plot plan and a metes and bounds narrative. Under Pennsylvania law, if both are attached to a deed, the words take precedence over the plan.

The best approach is where the plot plan is part of the right-of-way plan and is reviewed as part of the plan review. However, if not part of the right-of-way plan, the plot plan must be reviewed for accuracy when reviewing the deed.

A metes and bounds description may be included in the deed if the District requests or approves of this approach. In that case, however, the description should be supported by a sealed survey for PennDOT review. In any event, the description must be reviewed by someone in the District with sufficient knowledge to assure it accurately describes the property being transferred to PennDOT as depicted on the plan. Such a review may be impractical from a staffing standpoint. There is also the risk that the description may not close.

**TIMING** – Deeds and related documentation should be provided for review as soon as practicable after the right-of-way plan is approved, but well before roadway work is allowed. The right-of-way plan should not be prepared until the construction plans are prepared to insure proper right-of-way is acquired.

Executed deeds for all necessary State highway right-of-ways must be provided to PennDOT before roadway work is allowed.

**RECORDING** - The right-of-way plan must be recorded in the County Recorder of Deeds Office where other such plans are recorded. It must also be filed in the District Plans Room, with copies forwarded to the Bureau of Design in accordance with standard procedures for plans showing PennDOT right-of-way.

The deed conveying the right-of-way to PennDOT must be separately recorded in the County Recorder's Office where other deeds are recorded. Deeds should not be recorded prior to PennDOT approval. The USER must pay all fees necessary for recording the documents.

Right-of-Way Units in some Districts assist in recording plans and deeds.

### **ENVIRONMENTAL CONCERNS**

Once it accepts a deed, PennDOT can become responsible for environmental conditions on the property conveyed. Consequently, all environmental issues such as threatened and endangered species, wetlands, streams, historic resources, and hazardous materials should be thoroughly investigated and evaluated prior to acceptance of a deed.

In all situations the District should conduct a thorough visual inspection of the property for evidence of environmental issues before accepting a deed and require a Phase 1 environmental investigation meeting the requirements of [40 CFR Part 312](#). To insure that all environmental matters are properly addressed, the USER should submit an [Environmental Components Matrix Form \(M-4902EV\)](#). This form can be found in the Forms Section. The District environmental unit must review the completed form by cross-referencing it with any other documentation previously prepared for the project area.

More specific guidance is available in Section 15.11 ("Environmental Permitting/Clearance). Additional guidance from the District environmental unit should be obtained if there are any outstanding environmental concerns or questions.

### **ACQUISITION OF RIGHT-OF-WAY OTHER THAN OCCASIONAL FLOWAGE EASEMENTS**

There are three options when PennDOT is willing to cooperate in the acquisition of right-of-way other than occasional flowage easements in connection with excess maintenance work:

- (1) PennDOT acquires the right-of-way and constructs the project as a programmed PennDOT project with financial contribution from the USER;
- (2) PennDOT acquires the right-of-way with financial contribution from the USER and the USER constructs the project under an excess maintenance or other agreement with PennDOT; or
- (3) the USER acquires the right-of-way and constructs the project under an excess maintenance or other agreement with PennDOT.

Under Option 1, the USER will be required to execute a contribution agreement that will normally provide that the USER fund all right-of-way acquisition, utility relocation and construction costs of PennDOT, including administrative costs of PennDOT. These costs will also include the creation of a right-of-way plan and performance of all environmental requirements, including but not limited to the procedures set forth in Act 120 of 1970, as amended. The contribution agreement could provide that the USER creates the plan and

performs the environmental requirements with consultants approved by PennDOT and subject to PennDOT review and approval. PennDOT can perform the right-of-way acquisition work with PennDOT employees or through a right-of-way consultant. The acquisition work will be performed pursuant to the requirements of PennDOT's Right-of-Way Manual.

Under Option 2, the USER will be required to execute a contribution agreement that will normally provide that the USER fund all right-of-way acquisition and utility relocation costs of PennDOT, including administrative costs of PennDOT. These costs will also include the creation of a right-of-way plan and performance of all environmental requirements, including but not limited to the procedures set forth in Act 120 of 1970, as amended. The contribution agreement could provide that the USER creates the plan and performs the environmental requirements with consultants approved by PennDOT and subject to PennDOT review and approval. PennDOT can perform the right-of-way acquisition work with PennDOT employees or through a right-of-way consultant. The acquisition work will be performed pursuant to the requirements of PennDOT's Right-of-Way Manual.

Option 3 should be employed only in exceptional circumstances approved by the Deputy Secretary of Highway Administration. If employed, the above procedures relating to acquisition of occasional flowage easements will be used, with modifications necessary because the acquisition is of a greater property interest. PennDOT may require the USER to have the right-of-way acquisition work performed by a consultant approved in advance by PennDOT. PennDOT will not use its power of eminent domain to acquire properties under Option 3.

## **OUTLINE OF RIGHT-OF-WAY ACQUISITION PROCEDURES FOR EXCESS MAINTENANCE WORK**

The following are suggested chronological steps for successfully completing the conveyance process when a USER must obtain land for State highway right-of-way in connection with an EMA. Because each conveyance may have unique circumstances and requirements, the process may and should be adjusted based on direction from the specific Engineering District in which the road is located.

This outline is not intended to be a substitute for the policy on right-of-way acquisition procedures for excess maintenance work. There are requirements and guidance in the chapter that apply but are not contained in this outline.

1. Complete hydrologic study identifying impacts. (Approved by PennDOT)
2. Obtain appropriate existing PennDOT right-of-way (RW) plans.
3. Develop sketch plan of improvements.
4. Conduct RW and property research:
  - A. Obtain copies of tax maps from the local tax assessor's office.
  - B. Identify all properties and tabulate property tax numbers.
  - C. Obtain names of property owners, mailing addresses, deed references.
  - D. Obtain copies of all deeds.
  - E. Obtain ordinances, dedications.
  - F. Obtain utility easements.
  - G. Identify railroad RW.
5. Perform preliminary determination of utility involvement.
6. Perform preliminary determination of environmental involvement.
  - A. PennDOT should conduct a thorough visual inspection of the property for evidence of hazards or regulated resources before accepting a deed.

- B. PennDOT will require an applicant to deliver an environmental report for review, before accepting a deed.
7. Prepare more detailed preliminary plan showing property(s) with existing and proposed improvements and required RW.
8. Arrange for a pre-meeting with PennDOT, with the following recommended attendees:
  - A. PennDOT single point of contact (Maintenance Unit representative).
  - B. District RW Administrator (or representative).
  - C. Chief of Survey, Environmental Manager, Utility Administrator as appropriate.
  - D. USER.
  - E. USER's consultant.
  - F. USER's counsel as appropriate.
  - G. PennDOT counsel as appropriate.
9. Suggested pre-meeting agenda:
  - A. Identify and define single point of contact (usually within Maintenance Unit).
  - B. Submissions to be whole submissions, not partial submissions. Preliminary submission can be made. Final submission to include draft deed and title documentation.
  - C. Select standard or simplified RW plans presentation.
  - D. Review plan presentation details unique to excess maintenance plans.
  - E. Review acceptable form of deed.
  - F. Review title documentation requirements:
    - 1) Record owner and lien certificate/ abstract of title/title report.
    - 2) Exceptions to title must be addressed and removed where appropriate in the determination of PennDOT.
  - G. Review issues customized to a particular site.
    - 1) Elimination of utility easements, general utility clearance requirements.
    - 2) Environmental requirements for RW area to be transferred.
    - 3) Obtain general concurrence by PennDOT as to how much RW needed.
    - 4) Confirm that necessary temporary construction easements (TCEs), rights of entries or permissions have been acquired; do not show TCE's on RW plans.
    - 5) Discuss survey requirements.
  - H. Explain recording procedures.
    - 1) Who, when, and where.
    - 2) Discuss particular county recorder needs; every county a little different; RW Administrator may give guidance.
10. Suggested appropriate method to approach property owners where State or Federal funds are not being used and PennDOT has not authorized the local government to condemn if necessary.

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- A. Use standard form for initial letter/ contact with property owners:
    - 1) Explain general overview of the project.
    - 2) Assess general interest or cooperation.
    - 3) Clarify that this is not a PennDOT project but rather a private inquiry.
    - 4) Include a statement of no condemnation authority.
    - 5) Assurance that only amicable arrangements possible.
    - 6) Offer to have appraisal performed at no cost to property owner.
    - 7) Offer to provide fair market value.
    - 8) Offer to do all paperwork.
    - 9) Offer to meet and discuss.
    - 10) Offer contact person at PennDOT for information or to request PennDOT participation in meetings.
    - 11) Offer to consider counter offers.
    - 12) Allow reasonable response times.
    - 13) Make sure documents are notarized if necessary.
  - B. Follow up with formal offer including conditions, schedule information, and opportunity to accept or decline.
11. If not successful in acquiring RW and thus unable to meet design standards, then the applicant will need to redesign the project; if the project cannot be reasonably redesigned then the USER will not be able to use the road.
  12. If USER is successful in obtaining RW, then the following information must be prepared by the USER:
    - A. Drawings depicting right-of-way to be conveyed for the State highway.
    - B. Form [M-4902E](#) (Deed of Easement). This form deed is available from the Engineering District Office.
    - C. Title documentation.
  13. Perform survey if necessary.
    - A. PennDOT conveyances are generally based on a plot plan showing the area being conveyed and all or part of the tract of land from which it will be conveyed.
    - B. A metes and bounds description may be acceptable if it is supported by a sealed survey for PennDOT review. Confirm with PennDOT prior to performing a field survey. Review by PennDOT's Survey Unit typically requires verification of the point of beginning and subsequent deed calls, which can be impractical.
    - C. Obtain permission to enter property before surveying.
    - D. Survey wells and septic systems, all buildings, commercial signs, and private and public utilities which are adjacent to the highway corridor.
    - E. Locate miscellaneous property corners readily available along the highway corridor.
    - F. Survey references should conform to [PennDOT Publication 122M, Survey and Mapping Manual](#).
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14. Prepare final RW plans.
  - A. These drawings document the extent of the new RW in PennDOT's record keeping system. In order to do so, the USER is required to generate a plan depicting the RW that will be deeded to PennDOT. This plan shall generally follow the procedures set forth in Design Manual Part 3, Chapter 3 for generating drawings authorizing the acquisition of RW for PennDOT projects as modified for excess maintenance work projects. Use only 22" x 34" sheet size.
  - B. Where only a few properties are involved and the areas to be acquired are minor, the right-of-way plan can be a simple, one or two page plan that need not depict related proposed highway construction features. See [DM3, Chapter 3, Section 3.0.G](#) (Simplified Right-of-Way Plans). Otherwise, typical drawings can be organized as follows:
    - 1) SHEET 1 – Title Sheet to include special title and signature blocks for District Executive and Secretary of Transportation. Appropriate personnel, such as the District Plans Engineer, District Chief of Surveys, and/or District RW Administrator, should review the plan prior to signature. The title sheet will need to contain a recording block because the plan will be recorded.
    - 2) SHEET 2 – Index Sheet which may be combined with Sheet 3 if a one-sheet presentation is being used. [See [DM3, Section 3.3](#), pages 3-20, et seq.]
    - 3) SHEET 3 – Typical Section Sheet [See [DM3 Section 3.4](#), pages 3-25, et seq.]
    - 4) Sheet 4 – Plan Sheet showing the proposed work area with legal and required occasional flowage easement designated. The areas that will be deeded to PennDOT should be designated as 'required occasional flowage easement to be deeded to the Commonwealth.' Show all dimensions, plus(s)/offsets, and geometric data. If the centerline of the road is relocated, it must be clearly referenced and dimensioned from the existing centerline [See [DM3, Section 3.5](#), pages 3-40, et seq.].
    - 5) SHEET 5 – Property Plot Plan (formally known as Property Plat) of parcel from which the RW is being acquired. Check with District Maintenance Unit if this sheet is required as determined in consultation with the District RW Administrator or other real estate expert (discuss during pre-meeting). Identify deed information on plot. Fit plots to topographic features. Mark proposed RW monument points. Include all other slope easements, drainage easements, utility easements, etc. [See [DM3, Section 3.6](#), pages 3-50, et seq.]
  - C. Calculate preliminary areas and complete the information block Title Block [See [DM3 Section 15.1](#), page 15-4 for sample]. Remove the word "Claim."
  - D. Drawings will be reviewed by the District Maintenance Unit and other District personnel deemed appropriate such as the District RW Administrator, District Surveyor, District Plans Engineer and District Utility Administrator, and the assigned Central Office Field Liaison Engineer.
  - E. Stamp reproducible drawings with those of the Professional Land Surveyor and Professional Engineer responsible for the plans.
  - F. Sign the RW plan Title Sheet.
  - G. PennDOT process for execution by Secretary of Transportation.
  - H. District to insure acquisition of the new RW is properly filed and documented for future reference and use by the District and others.
15. Resolve utility/environmental issues.
16. Deed delivered and approved by District.
  - A. Form [M-4902E](#) (Occasional Flowage Easement Deed) shall be used to convey the needed RW from the USER to PennDOT.

- B. Must first be conveyed to the USER and then by the USER to PennDOT in one deed using the deed form.
  - C. The deeds utilize a plot plan referenced as an exhibit. A metes and bounds description should not be used.
  - D. The USER is required to provide title documentation (preferably a record owner and lien certificate) updated within 15 days of the date the land will be conveyed to PennDOT. All exceptions to title must be addressed and removed as determined necessary by PennDOT. Liens must generally be removed from the property conveyed.
  - E. Once the executed deed is obtained, the District must review and approve the deed and the plot plan or description before it is recorded (by the applicant if requested by PennDOT).
17. Allow roadway work to be performed.
- A. All negotiations must be settled and the approved deed (with approved plot plan and title documentation) must be executed prior to allowing the roadway work to begin.
  - B. The RW plan must likewise be completed and approved prior to allowing roadway work to begin.
18. Record RW plan.
- A. The District Maintenance Unit, along with the District RW Administrator will, preferably during a pre-meeting, provide and explain the recordation process based on PennDOT recording needs and the applicable county recording requirements.
  - B. Costs associated with the county's recordation process are the responsibility of the applicant.

## 15.16 USER UPGRADE PLAN

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### INTRODUCTION

The USER(s) may elect to upgrade roads and/or bridges prior to, or during their hauling operations. Upgrades increase the structural capacity of the roadway or bridge and go beyond the excess maintenance activities or the repair and restoration strategies noted in the USER's maintenance plan.

Roadway Upgrades are defined as projects that are over 500 contiguous linear feet in length and include any of the following types or combination thereof: full depth reclamation, reconstruction, or overlays greater than 3" in depth for the entire roadway width; or any roadway widening. The Department's requirement of the USER(s) is to complete the necessary repairs to restore the roadway and bridge to the condition at the time of the initial inspection; therefore, a decision to upgrade the roadway and/or bridge is strictly at the option of the USER(s). USERS are encouraged to evaluate the structural capacity of the pavement and/or bridge to assess the ability to safely and efficiently carry the anticipated truck traffic. If the pavement or bridge is not adequate to carry the traffic, early failures may occur that could impact the efficiency of the USER's operations, result in unsafe conditions, and require the USER(s) to make immediate repairs.

A USER may elect to complete, or assist the Department with, structure or bridge repairs. Coordinate with the District Posting and Bonding Coordinator on the process for these repairs. In accordance with Right To Know Law protections, sensitive bridge rating information shall not be released for the purpose of determining the scope of possible bridge repairs. The District may make the bridge inspection data available for viewing in the District Office. The District Bridge Engineer shall determine the acceptable bridge upgrade based on engineering analysis, planned projects and anticipated use of the bridge and route.

Proposed USER bridge upgrade repairs and rehabs must be approved by the District Bridge Engineer. The repairs must not result in a more frequent inspection cycle than currently required. Temporary structural repairs will be considered acceptable with approval of the District Bridge Engineer. Replacement of the structure is acceptable. Districts are to contact Central Office for instances where more significant reconstruction is recommended but is beyond the scope of work proposed by the USER.

The Department cannot require any upgrade be completed at all, or completed to the ultimate structural capacity needed to accommodate the anticipated traffic. However, if an upgrade is elected, the Department requires completion of a USER Upgrade Plan in accordance with these USER Upgrade Guidelines. In addition, the Department will provide inspection of the upgrade construction activities and will seek cost recovery in accordance with Section 15.8.

When multiple USERS are permitted on a roadway or bridge and an upgrade is being considered by more than one USER, all USERS should work cooperatively to define the cost sharing and the responsibility of each USER. These individual responsibilities include the cost sharing of the reconstruction and the determination of a fair cost split for excess maintenance required prior to reconstruction. The Department will determine excess maintenance responsibilities if “good faith” efforts still produce disagreement.

These USER Upgrade Plan Guidelines are intended to provide uniform procedures for the design and construction of safe roadways and bridges to satisfy the needs of the motoring public as well as the USER(s) responsible for completing the upgrades. An executed Excess Maintenance Agreement and approved USER Maintenance Plan must typically be in place prior to performing any activities on the roadway or bridge. Occasionally, instead of an Excess Maintenance Agreement, another type of agreement will need to be approved prior to roadway activities. These include Right-of-Entry, Cooperative and Contribution Agreements. The District will assist in determining the agreements necessary for a bridge or road upgrade.

The proposed upgrades must meet the minimum standards established by these guidelines.

Before starting the design, contact the District Posting and Bonding Coordinator and/or Bridge Engineer to meet and discuss the proposed upgrades to the route(s). Note that certain design issues such as design exceptions, utility coordination, and right-of-way acquisition may prolong the process and the USER(s) should plan accordingly.

The following ASSESSMENT OF NEED FOR ROAD UPGRADE PRIOR TO HAULING BASED ON PAVEMENT STRUCTURE section provides the recommended procedure to determine if a road upgrade prior to hauling may be warranted. The GENERAL UPGRADE REQUIREMENTS section provides guidelines for the design of such road upgrades, as well as general requirements for bridge upgrades. Specific plan submission requirements and the scope for bridge projects shall be determined on a case by case basis with the District Bridge Engineer.

### **USER Upgrade Plan Submission**

The Upgrade Plan submission must include two hard copy plan sets, one full size (22”x 34”) and one half size (11” x 17”); and a PDF file on media acceptable to the District.

The Upgrade Plan submission should also include a completed checklist ([M-4902URUPC](#)).

### **List Roadway(s)/Bridge(s) Planned For Upgrade(s)**

Prepare a List of Roadway(s)/Bridge(s) Planned for Upgrade(s) in a table format. Preliminary discussion of potential upgrades will benefit the USER(s) and the Department. The submitted table should include the following column headings for each roadway to be upgraded:

- Municipality/County
- Road Name and State Route Number
- From (Segment/Offset)
- To (Segment/Offset)
- Scope of the Project
- Approximate Month and Year of Design/Construction milestones including Start of Design, Start and End of Construction.

**List Company Name and Contacts for Support Services**

Provide the following information for the USER(s), Supporting Engineer and PennDOT Approved Contractors (upon selection).

Contact Name

Company Name

Title

Street Address

Office and Mobile Number

Email address

The contacts must be local, prioritized and available on a 24/7 basis.

**ASSESSMENT OF NEED FOR ROAD UPGRADE PRIOR TO HAULING BASED ON PAVEMENT STRUCTURE**

In order to determine the need for an upgrade prior to hauling, the existing structural capacity of the pavement should be compared to the structural capacity needed to accommodate the anticipated increase in truck traffic. A recommended three-step evaluation process is described below.

**Step 1- Projection of Truck Traffic:**

Provide a projection of truck traffic through the end of the period of the USER's anticipated use of the road, or for the first 12 months, whichever is greater. The projection should include existing base truck traffic (available through PennDOT) and an estimate of the types and number of trucks anticipated by the USER(s) over the projected period (select truck types and truck classes from [Publication 242](#)). If the USER's operations have distinct phases, the trucks associated with each phase should be identified. For example, an Unconventional Oil and Gas USER(s) projection should include a breakdown of truck movements at public roads and the USER's driveways within the upgraded project limits, associated with construction of the drilling pad, drilling of wells at the pad site and then the hydro-fracking of each well at the pad site.

**Step 2- Determination of Structural Capacity of Existing Pavement:**

The procedures outlined in Approach A – Coring and Non-Destructive Testing Method or Approach B – Coring and Pavement Condition Survey Method should be followed to determine the structural capacity of the existing pavement for the road(s) to be used by the hauler. Upon completion of the coring operations holes must be filled with suitable material and compacted. Refer to [Publication 242](#), Chapter 10 for more information.

**Approach A- Coring and Non-Destructive Testing Method**

1. Obtain a minimum of two pavement cores per mile of upgraded road to identify pavement layer types and thicknesses. For lengths less than one mile, obtain a minimum of two pavement cores. Provide a log describing each pavement layer, including its thickness and condition. Also provide photographs of each pavement core. The need for cores may be reduced or eliminated if existing records of the pavement section (possibly available from PennDOT) are adequate to determine pavement layer types and thicknesses.
2. Conduct non-destructive testing of the pavement using a falling weight deflectometer (FWD) to obtain data to determine the strength of the existing pavement. Tests should be performed at 0.25 to 0.5 mile intervals, in each lane, depending upon the length and variability of the road being evaluated. Note – a greater number of tests should be performed for design of an upgrade if deemed necessary by the Department. The USER(s) may elect to perform a sufficient number of FWD tests during the assessment phase to avoid the additional mobilization of FWD testing equipment for the design phase. FWD testing should not be performed when subgrade soils contain frost. If the condition of the subgrade is not known, avoid FWD testing when air temperature is below 32°F.

3. Determine the load carrying capacity of the existing pavement using the Non-Destructive Testing (NDT) method referenced on Page 10-3 of [Publication 242](#). Refer to the AASHTO Guide for Design of Pavement Structures (1993), Part III, Section 5.3.3 and 5.4 for the specific procedure to be used. This procedure involves the determination of the effective structural number (SN) based on the effective stiffness of the entire pavement section above the subgrade and the subgrade soil strength in terms of its resilient modulus ( $M_r$ ). The SN of the existing pavement is then used to estimate the remaining pavement life in terms of ESALs using the design procedures detailed in the AASHTO Guide for Design of Pavement Structures (1993) or the accompanying DARWin software.

#### **Approach B- Coring and Pavement Condition Survey Method**

1. Obtain a minimum of four pavement cores, with 5-foot deep soil borings, per mile of upgraded road. For lengths less than one mile, obtain a minimum of four pavement cores with soil borings. Perform Dynamic Cone Penetrometer (DCP) or in-place California Bearing Ratio (CBR) tests at 3 locations or one per mile, whichever is greater, to determine subgrade strength. The borings and DCP or CBR tests should be located in areas representative of the predominant surface condition and may include some in poor areas. The requirements for cores, borings and DCP or CBR tests may be reduced or eliminated if existing records of the pavement section (possibly available from PennDOT) are adequate to determine layer thicknesses and subgrade soil strength.
2. Conduct a visual condition survey to document the type, severity and quantity of surface distresses. The procedures described in PennDOT [Publication 336](#) (Automated Pavement Condition Survey Field Manual) should be followed except that fatigue cracking should be recorded as alligator cracking and the extent should be recorded as a percentage of the pavement area instead of the length of segment containing this distress. These modifications are necessary for use in Task c below.
3. Estimate the load carrying capacity of the existing pavement using the established procedures provided in the AASHTO Guide For Design of Pavement Structures (1993) and the data obtained in steps a and b. This procedure involves the determination of the effective structural number (SN) using a less rigorous procedure than that based on FWD testing described under Approach A. The procedure estimates the effective SN by equating surface cracking to reduced coefficients for each of the pavement layers. An estimate of the subgrade soil strength is made based on the data collected in step A. The SN of the existing pavement is then be used to estimate the remaining pavement life in terms of ESALs using the design procedures detailed in the AASHTO Guide For Design of Pavement Structures (1993).

#### **Step 3- Determination of Need for Road Upgrades Prior to Hauling:**

Compare the projected truck traffic, in terms of ESALs, from Step 1 to the remaining ESAL life determined in Step 2, from Approach A or Approach B. If the projected ESALs within the first 6 months of hauling are expected to consume more than 80 percent of the calculated remaining pavement life (from step 2c), the permittee is strongly encouraged to complete a pavement upgrade prior to the start of hauling to decrease the likelihood of early pavement failures that can jeopardize the USER's permit and/or decrease the efficiency of transporting materials and equipment to support its operations.

The upgrade should consist of repairing any base failures and an overlay designed to carry the projected ESALs. If the USER(s) elects to complete such an upgrade, the cost must be borne completely by the USER(s) unless a prior written agreement has been completed with other USERS and/or PennDOT. If the projected ESALs within the first 6 months of hauling are expected to consume less than 80 percent of the calculated remaining pavement life, the permittee may wish to delay the decision to upgrade the pavement and re-evaluate the pavement condition in 6 months. Guidelines for the design of an upgrade are provided in the GENERAL UPGRADE REQUIREMENTS Section.

### **GENERAL UPGRADE REQUIREMENTS**

#### **General Objectives**

All upgrades must be completed using methods consistent with PennDOT Standards and Specifications. Asphalt paving upgrades must be completed within the specified weather limitations in applicable Sections of

[Publication 408](#). Paving beyond the weather limitations must be approved in writing by the District Executive even when Warm Mix Asphalt is to be used for paving.

All access drives off of PennDOT roads that lead to supporting site locations will be permitted through the PennDOT HOP process before the access drive is constructed and must have adequate sight distance and conform to [67 Pa Code, Chapter 441](#) Regulations and [Publication 282](#) policies.

### USER Upgrade Design and Plan Preparation

1. **Upgrade Design** – Design of the Upgrade Plans shall consider items as discussed in [Publication 242, Chapter 12, Section 2, \(12.2\)](#). For exceptions to these guidelines that involve geometric and bridge issues reference [Publication 10](#), Design Manual 1X, Appendix P.
2. **Minimum Pavement and Shoulder Widths** – The minimum pavement and shoulder widths for the upgrades shall be in accordance with [Publication 23 Maintenance Manual, Chapter 7, Appendix A](#). If existing pavement and shoulder widths are greater than the minimum, maintain the existing widths.
3. **Design Exceptions** – Exceptions to these guidelines that involve geometric and bridge issues shall be addressed as indicated in [Publication 10, Appendix P – Design Exceptions](#).
4. **Pavement Designs** – Pavement designs shall be prepared in accordance with [Publication 242](#) Chapter 9 & 10. Full Depth Reclamation (FDR) is an alternate upgrade technique that may be employed if site conditions are suitable. This provides a means to reuse existing materials and may decrease the impacts of grade adjustments beyond the edge of pavement. PennDOT's Guide Specifications for this work are provided in [Publication 447](#). PennDOT has developed a Best Practices Guide for the use of FDR and is incorporating this guidance into its policy and specifications.
5. **Work within Right-of-Way/ Acquisition of Right-of-Way** – It is the intent of these guidelines to complete the majority of the proposed work within the existing right-of-way. If Acquisition of Right-of-Way or Easements are needed as part of the upgrade improvements, prepare Right-of-Way Plans in accordance with 15.14, "Right-of-Way Procedures for Excess Maintenance Work." Obtain written PennDOT approval before starting acquisition of or construction within the proposed Right-of-Way or Easement areas.

**It is the responsibility of the USER(s) to coordinate any temporary construction easements or rights of entry with the individual property owners. If requested, proof of such coordination must be provided to the Department.**

6. **Upgrade Schedule** – The upgrade improvements schedule should be coordinated and approved by the Department, to verify there are no impacts to construction or maintenance projects scheduled by PennDOT. Review Construction / Holiday Restrictions with the Department before starting work.
7. **Upgrade Plans** – Prepare Upgrade Plans in accordance with [Publication 14M](#) Design Manual Part 3: Plans Presentation and the reduced size sample plans. A section number for each upgrade will be assigned by the District. Additionally, the plans should include Summary of Quantities and Tabulation of Quantities Sheets to quantify the proposed work.

**"AS-BUILT" plans shall be submitted within two (2) weeks of completion of the project. Completion of project is defined as when the final inspection is approved and all corrective action and additional work has been completed. The "AS-BUILT" submission shall include two hard copy plan sets, one full size (22"x34") and one half size (11" x 17"); and a PDF file on media acceptable to the District.**

8. **Construction Materials** – All materials used to construct the upgrades shall be approved products as indicated in Publication 35 - Approved Construction Materials (Bulletin #15). Provide Source of Supply forms (CS-200 or CS-201) for Department approval per Publication 408, Section 106.02.
9. **Bituminous Material** – For each Hot Mix Asphalt (HMA) or Warm Mix Asphalt (WMA) paving course to be placed, submit a Bulletin 41 source of supply for the asphalt mixture material and submit

the PennDOT approved Job Mix Formula for each paving course. Also submit a bituminous placement quality control plan in accordance with Publication 408. Bituminous material testing requirements will be certification acceptance.

- 10. Surplus Material Milled Material** – Coordinate with PennDOT. PennDOT will determine if milled material should be incorporated into the bonded roadway, stockpiled for PennDOT's use, or appropriately disposed by the USER(s) as waste material. Refer to [Publication 281](#) – Transportation Project Development Process, Waste Site Evaluation for guidance.

Guide Rail – Coordinate with PennDOT. PennDOT will determine if guide rail, or portions of the guide rail removed as part of the roadway upgrades shall be stockpiled for PennDOT's use or appropriately disposed of by the USER(s) as waste material.

- 11. Out of Season Work** - A written request to the District Executive and subsequent approval is required for placing HMA or WMA paving outside of the weather limitations specified in Publication 408 for the applicable paving course. Only roadway work that meets PennDOT standards will be considered permanent. Work completed outside the specified weather limitations will be reviewed the following spring regarding the long term sustainability and whether the road condition is equal to or better than the pre-existing road condition that was documented at the start of the Excess Maintenance Agreement. The District may require further evaluation and/or accept the work for final placement at the District Executive's discretion.
- 12. Bridge Issues** – Note any bridge concerns, such as weight restriction, vertical clearance, or lateral widths. PennDOT will coordinate or direct the flow of this information to the proper reviewer. If the USER elects to make bridge upgrades or repairs, coordinate with the District.

To protect bridges, reconstruct the bridge approaches for 50-feet at a minimum of 8-inch depth which consists of HMA Base Course/HMA Binder Course. Coordinate the details with the District.

- 13. Drainage Issues** – Current or potential drainage and stormwater issues should be documented and identified. Refer to [Publication 23, Chapter 8](#) (Drainage and Drainage Systems), which includes background on the [State Highway Law of 1945](#), the [Stormwater Management Act of 1978](#), and other provisions. PennDOT prefers the use of open ditches and cross pipes in the design of stormwater systems. If an enclosed storm water facility is approved, the local government or land owner must be the permittee.

## Safety

Review and evaluate any potential areas of concern from PennDOT or that were previously noted as part of the maintenance plan development. The entire design process includes many aspects related to safety. Refer to the following publications for guidance:

- [Publication 242](#) Pavement Policy Manual, Chapter 12, Sections 1, 2 &3.
- [Publication 23](#) Maintenance Manual, Chapter 7, Appendix A.
- [Publication 10](#) Design Manual Part 1X, Appendix P, Design Exceptions.

Some key topics include: roadway and shoulder widths, superelevation and cross slope, guiderail, the updating of substandard design elements related to crash history, and design exceptions.

## Utilities

Ensure coordination with PA One Call during both the Design and Construction Phases. Note any specific utility coordination issues, including sewer, water and gas lines. Prepare the Upgrade Plans to include any utility details or relocations required by the proposed work and who is responsible for performing the work. If vertical clearance is an issue, coordinate with the utilities and PennDOT. An 18' vertical clearance is required for any new installations.

## Railroads

If a railroad crossing, either at grade or grade separated, is located within the project, contact the railroad early in the design process. Note that the railroad company is responsible for the highway crossing surface within 24" of the outside rails and PennDOT is responsible outside the 24". Discuss whether or not the railroad has any plans to improve the crossing. Also, coordinate with the District to determine if PennDOT has any crossing improvement plans. If a crossing needs to be altered as a result of the upgrade improvements, an application must be filed with the [Pennsylvania Public Utility Commission](#) (PUC). Refer to Section 15.6 of this Chapter and [Publication 371](#). The Upgrade Plans shall include details of the proposed work and who is responsible for performing the work.

## Pavement Markings and Signing

1. Provide typical line striping and signing details with a corresponding location list in accordance with [Publication 72M](#), Standards for Roadway Construction (RC) and [Publication 111M](#) Traffic Control (TC) – Pavement Markings and Signing Standards TC-8600 and TC-8700 Series. Coordinate with the District on whether a Signage and Pavement Marking Plan is required.
2. Describe the use and on-going maintenance of temporary pavement marking tape and the installation or covering of signs. In general, roadways cannot be opened to traffic without pavement markings. Refer to [Publication 408](#), Section 901.3(k) regarding work area pavement markings.
3. Coordinate with each District and provide final striping and signing plans as directed. Final striping and signage is the responsibility of the permittee unless the PennDOT District agrees to install.

## Maintenance and Protection of Traffic

1. Provide a narrative of the major construction phases involved and the associated maintenance and protection of traffic control plan.
2. Include applicable Pennsylvania Typical Application (PATAs) from [Publication 213](#) or prepare a Traffic Control Plan if standard PATAs are not sufficient or applicable.
3. Describe the plan to properly monitor and manage the work zones, including providing any work zone compliance checklists the USER(s) may use.
4. Describe the contingency plan for possible major and minor pavement degradation and discuss the planned traffic control to maintain and protect traffic while repairs are made. For full roadway closures, limit the roadway closure as much as practical. PennDOT must approve emergency closures in advance. The USER(s) will notify emergency authorities, municipalities, school districts, local businesses and residents immediately when an emergency road closure is required. Local and emergency access must be maintained during all phases of construction.
5. The Department must be notified in writing at least 14 days, or 10 working days, whichever is greater, prior to implementing any detours or lateral lane restriction that result in less than 16 feet of pavement and shoulder in each direction.

## Erosion and Sedimentation Control (E&S)

Provide an E&S Plan or Narrative coordinated with the County Conservation District. Active coordination should be undertaken with the County Conservation District to proactively address any potential concerns before project schedules are adversely impacted. The USER must comply with the requirements of [25 Pa. Code Chapter 102](#), Erosion and Sediment Control and Stormwater Management, [25 Pa. Code Chapter 92a](#), National Pollutant Discharge Elimination System Permitting, Monitoring and Compliance, [25 Pa. Code Chapter 105](#), Water Obstruction and Encroachment Permitting; and any other applicable Federal, State, or local laws, ordinances or regulations. See 15.13 for additional guidance.

## Waste Disposal/Recycling

Provide any recycling and waste disposal plans. Note that the permittee is responsible for any required permits and compliance. Provide copies of approved waste sites. Refer to [Publication 281](#).

**Environmental Components Matrix**

Submit the completed form, [M-4902EV](#), as described in 15.13. Deed of Easement (as needed) Discuss any needs for a deed of easement as described in 15.14.

**USER UPGRADE PROJECT ACCEPTANCE PROCESS****Step 1 – Request a Final Inspection**

Upon completion of the upgrade construction, the USER(s) will notify the District and request a final inspection in writing.

**Step 2 – Department Schedules Inspection**

The Department will schedule the final inspection within two (2) weeks of receiving the written request.

**Step 3 – Inspection**

The Department will perform the inspection. The final inspection will establish a detailed list of work items, by segment and offset, requiring completion or correction and a list of all certificates or documents requiring submission, completion, or correction. This list will be provided by the Department in writing within one (1) week of the final inspection. When the USER(s) has completed the corrective and/or additional work, a written notice should again be submitted to the Department. The Department will evaluate the corrective and/or additional work and, if needed, schedule another final inspection. This process will continue until all work items have been addressed.

**Step 4 – Upgrade Project Acceptance**

If the Department finds no corrective or additional work is needed as noted by the Inspector, and all work was completed within specification, the Department will issue a letter of Upgrade Project Acceptance ([M-4902UA](#)) within two (2) weeks of receiving the asbuilt plans and any outstanding material certifications or documents. If any work was completed outside of Department specifications, refer to USER Upgrade Design and Plan Preparation, (k.) Out of Season Work of this section for additional guidance.

As per the EMA, the USER shall maintain the posted highway to a level consistent with the existing state of repair determined through the initial inspection. Roadway upgrades shall not in itself establish a new existing state of repair. This applies to roadways with single and multiple bonded USERS.

The Upgrade Project Acceptance does not relieve the USER(s) of their responsibility to submit a Maintenance Plan for approval and to maintain the roadway in accordance with their EMA.

## CHAPTER 15 APPENDIX

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<b>NORMAL MAINTENANCE VS. EXCESS MAINTENANCE ON PAVED HIGHWAYS</b>		
<b>ACTIVITY</b>	<b>NORMAL MAINTENANCE</b>	<b>EXCESS MAINTENANCE</b>
Pothole patching	No patching required until 3 years after a roadway has been paved and/or seal coated; otherwise, when needed but not more than once a year. Bridge – as needed for normal traffic.	Pothole or wheel depressed areas after roadway has been scratched and seal coated within a 3 year period; otherwise, when needed. Bridge – as needed based on USER damage.
Shoulder cutting or grading	3 to 4 year cycle	Anything more often than 3 to 4 year cycle. Shoulder build-up due to USER's truck running off edge of pavement. Shoulder cutting or grading due to roadway being pushed down.
Inlet and ditch cleaning /Bridge deck and scupper cleaning	As needed due to gradual sediment. Bridge – each Spring	As needed due to run-off from USER's approach, shoulder deterioration arising from USER's trucks running on shoulders, ditches pushed shut by USER's trucks riding on shoulders. Bridge – as needed for dirt/material from USER's operations.
Pipe replacement	When pipe wears out (25-30 years).	Pipe crushed or damaged due to USER's heavy hauling activities.
Pipe flushing	As needed due to gradual build-up of debris.	As needed due to run-off from USER's approach, shoulder deterioration arising from USER's trucks running on shoulders, pipe blocked as result of USER's trucks riding on shoulders.
Signing & Delineation	As needed due to routine sign upgrading or replacement.	Weight restriction signing and any signing needed due to roadway condition or hauling activities. NOTE: PennDOT will install the weight restriction signing.
Line Striping	Once per year for specific roadways.	Line striping needed due to repairs or activities, including any temporary striping or markings needed.
Snow Removal and Winter Traffic Services	Regular and routine as part of PennDOT's winter traffic services.	Additional winter traffic services provided by PennDOT to address issues caused by permittee, for example, icy spots due to water spilled on the roadway.
Guiderail/Bridge Barrier Updates	As funding is available	Update required due to USER's paving, preventative maintenance, damage, or other repairs.

<b>NORMAL MAINTENANCE VS. EXCESS MAINTENANCE ON PAVED HIGHWAYS</b>		
<b>ACTIVITY</b>	<b>NORMAL MAINTENANCE</b>	<b>EXCESS MAINTENANCE</b>
Guiderail Reset/Bridge Transition	As funding is available	Guiderail adjustment is due to USER's paving, preventative maintenance, or other repairs, and is suitable for resetting/transitioning to bridge.
Drainage Modifications	Case by case basis.	Any modifications required due to USER's repair or activities.
Grading and Shaping *	Spring and Fall. Material to stabilize	Grading and shaping beyond normal maintenance. Bridge – as needed from USER's activities.
Dust Palliative *	Once a year (in front of house).	Anything more often than once a year.
Grading and Shaping/ Bridge Approach Settlement **	Not applicable	As needed
Dust Palliative **	Not applicable	Dust oil the entire length as needed.

\* Applies only to stabilized highways.

\*\* Applies only to paved highways that have reverted to stabilized highways. PennDOT's goal is to totally avoid this situation.

## Initial Posting Procedures Flow Chart

(Revised November 2012)

District/County anticipates influx of heavy hauling or roadway condition indicates consideration of weight restrictions is necessary

**Traffic may be prohibited or restricted when any of the following exist;**

- 1) The highway pavement or shoulders have been weakened due to deterioration, high traffic volumes or climatic conditions, and a pavement analysis or engineering judgment indicates that it may be seriously damaged unless certain weight vehicles are prohibited.
- 2) The highway has inadequate turning radii, horizontal width or under clearance at one or more locations.
- 3) An analysis of previous climatic conditions indicated that certain weight vehicles should be prohibited from the highway.

Traffic and Engineering Study completed in accordance with Title 67, Chapter 212

**Safety Restriction**  
Refer to Publication 46 and 212

Determine Type of Restriction

**Bridge Restriction**  
Refer to District Bridge Unit

**Structural**

Seasonal weight restriction considered

Possible alternate routes identified

District approves weight restriction

Provide PSP Notification

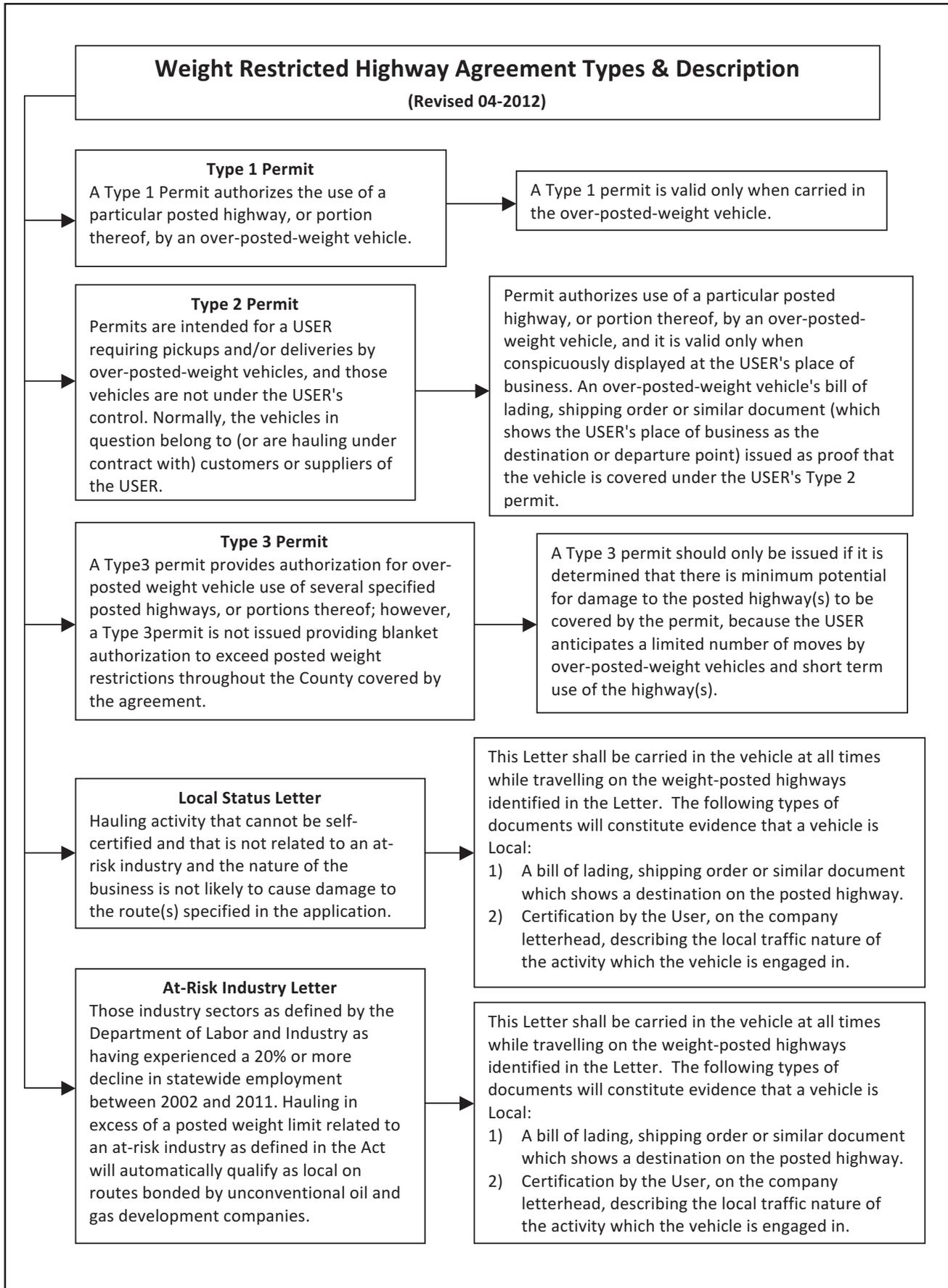
Publish Public Notice

Signage Placed

Contact known Users

Begin Agreement process with Users

Enter posting into RMS System



**CHECKLIST FOR ENTERING INTO AN EXCESS MAINTENANCE AGREEMENT**

**Chapter 15 Appendix Form 1**

<input type="checkbox"/>	District contacts USER or USER contacts district.
<input type="checkbox"/>	Obtain following information:
<input type="checkbox"/>	M-4902APP – Application to Add or Remove a Section of Highway (EMA)
<input type="checkbox"/>	M-4902APPL – Letter of Local Determination – Application to Add or Remove a Section of Highway
<input type="checkbox"/>	Department discusses with USER their potential activity to determine need to enter into an agreement and Type of agreement. (Determined generally by the type of heavy hauling operation.)
<input type="checkbox"/>	<b>Type 1 Permit</b> - Authorizes use of a particular highway or portion of highway by an over-posted-weight vehicle.
<input type="checkbox"/>	<b>Type 2 Permit</b> - Authorizes use of a particular highway or portion of highway by any number of over-posted-weight vehicles being driven to or from a common destination.
<input type="checkbox"/>	<b>Type 3 Permit</b> - Authorizes use of specific posted highway or portions of a highway by an over-posted-weight vehicle.
<input type="checkbox"/>	<b>De minimis operations</b> - (Local Letter)- Hauling activity that cannot be self-certified and that is not related to an At-Risk Industry.
<input type="checkbox"/>	<b>At Risk Industry</b> – (Local Letter) – Those industry sectors defined by the Department of Labor and Industry as having experienced a 20% or more decline in statewide employment between 2002 and 2011.
<input type="checkbox"/>	Determine who is to do maintenance.
<input type="checkbox"/>	Option “A” Damages repaired by the department and/or its contractor
<input type="checkbox"/>	Option “B” Damages repaired by the USER or USERs contractor(s).
<input type="checkbox"/>	Explain initial, interim, final and condition survey inspection(s) procedure.
<input type="checkbox"/>	Explain any charges (actual costs) Costs directly charged to inspections, mobilizations, labor, equipment, administrative, etc.
<input type="checkbox"/>	Identify any weight restricted bridges present on the portion of highway being permitted.
<input type="checkbox"/>	Notify potential USER(s) of their responsibility to permit said bridges.
<input type="checkbox"/>	Determine if any other USERs have a permit on the same SR(s)
<input type="checkbox"/>	If Yes, contact other USER(s) for the following:
<input type="checkbox"/>	Determine share of responsibility for damages.
<input type="checkbox"/>	Determine amount and type of security.
<input type="checkbox"/>	Performance Bond
<input type="checkbox"/>	Irrevocable Letter of Credit
<input type="checkbox"/>	Other – Specify Type: _____
<input type="checkbox"/>	If none exists, set-up WBS Element(s) (USER and SR) in SAP for Billing purposes in accordance with the finance circular “Weight Restricted Posted Highway Invoicing”
<input type="checkbox"/>	Assign an Agreement Number and complete agreement to extent possible.
<input type="checkbox"/>	Enter the agreement into LATS to ensure you have a valid agreement number. (This step is critical to ensure the matching/correct agreement number appears on the security/insurance and all other agreement related documents.)

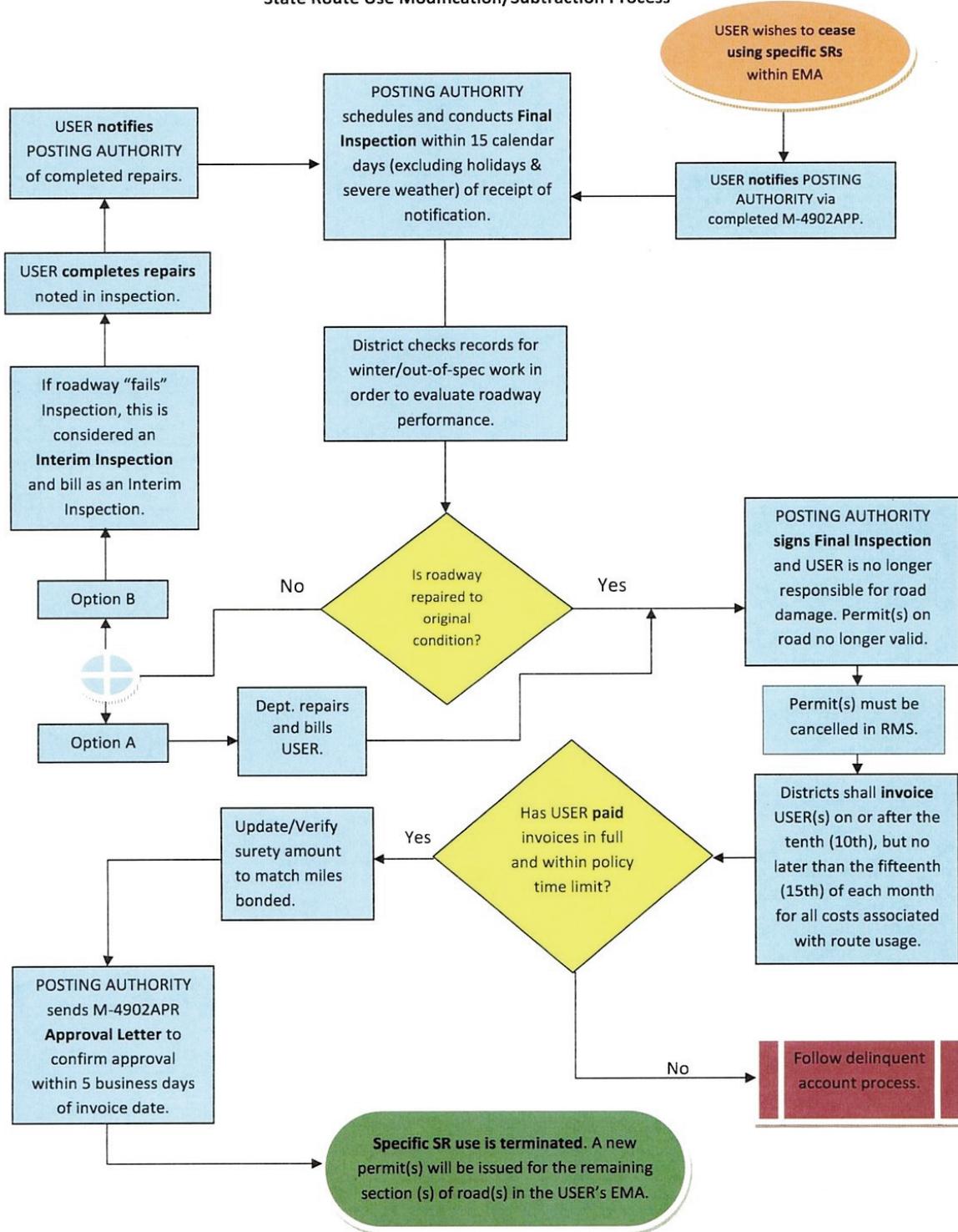
<input type="checkbox"/>	Forward the completed agreement to USER for signature and return. USER must provide security (and Power of Attorney for Performance Bonds), and ACORD Certificate of Insurance for agreements selecting maintenance Option "B".
<input type="checkbox"/>	Forward original agreement and all exhibits, schedules, and routing sheet to the Office of Chief Counsel for processing. Enter into LATS
<input type="checkbox"/>	Once the Agreement is fully executed, forward a copy of the approved agreement to the USER. Maintain the original approved agreement at the Posting Authority's Office(s).
<input type="checkbox"/>	Conduct Initial Inspection
<input type="checkbox"/>	Assign Permit Number
<input type="checkbox"/>	Enter Permit information into RMSPOST Sub-System
<input type="checkbox"/>	Issue Permit to User
Additional comments, issues or concerns regarding the execution of this agreement.	

**Districts/Counties are encouraged to utilize this form and keep a completed copy with the specific Agreement file.**

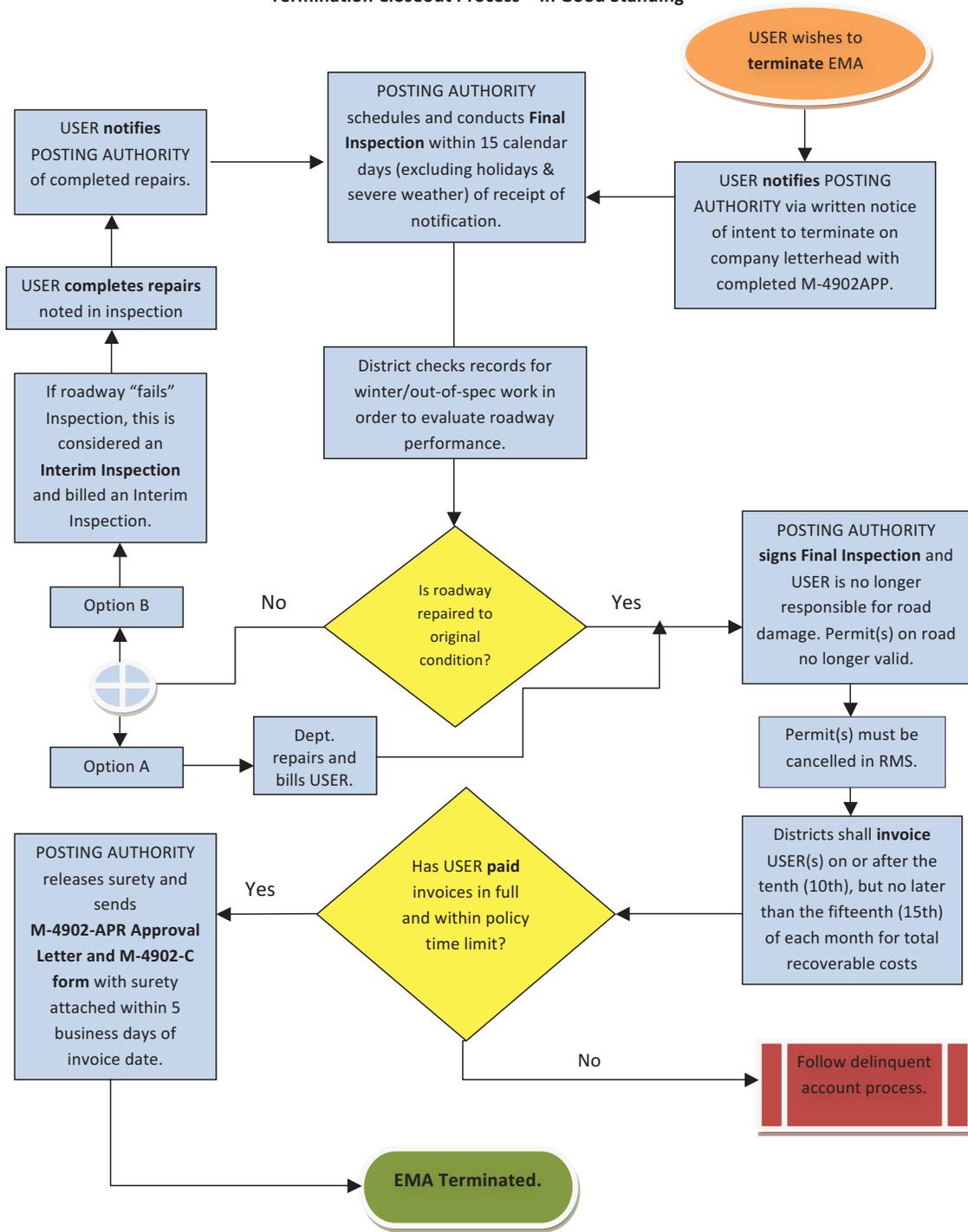
**(Reproduce locally)**

(P:/PennDOT Shared/Posted and Bonded Roads/EMA Support Documents/CHECKLIST FOR ENTERING INTO AN EXCESS MAINTENANCE AGREEMENT.docx) (Revised 08/23/13)

Publication 23, Chapter 15 (07-2011) – Excess Maintenance Agreement (EMA)  
State Route Use Modification/Subtraction Process



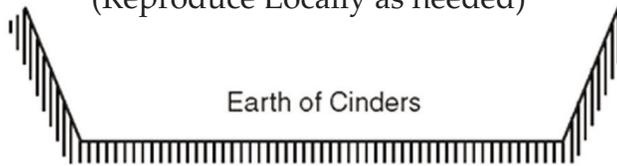
**Publication 23, Chapter 15 (07-2011) – Excess Maintenance Agreement (EMA)  
Termination Closeout Process – In Good Standing**





**PAVEMENT TYPES**

(Reproduce Locally as needed)



Earth of Cinders

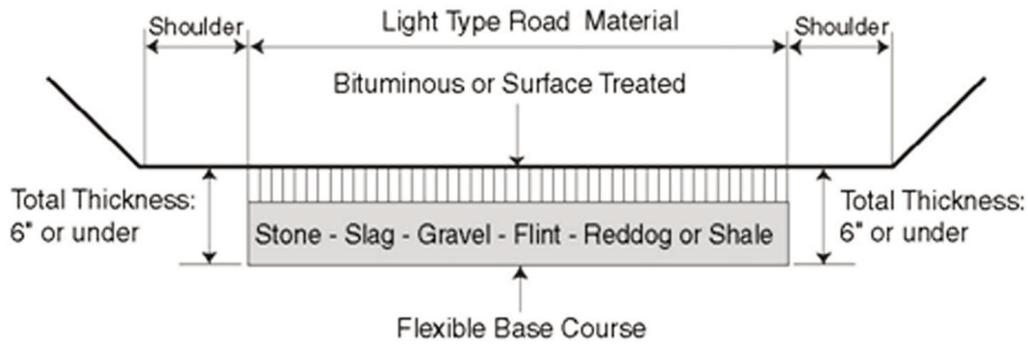
**TYPE 20 HIGHWAY**



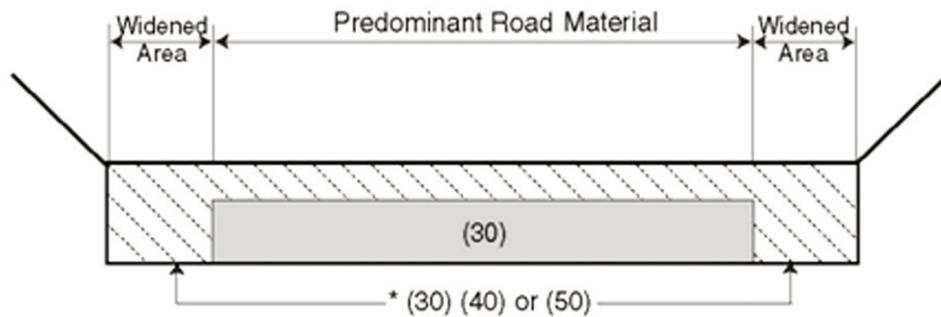
Surfaced Road

Stone - Slag - Shale - Gravel  
Stabilized Earth - Traffic Bound, etc.

**TYPE 40 HIGHWAY**



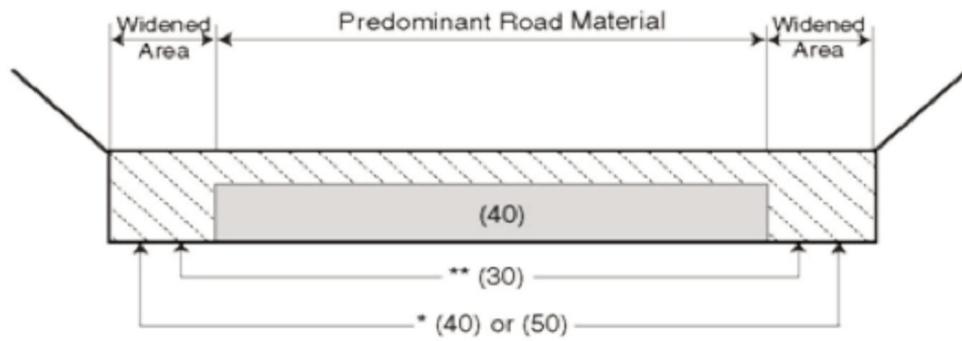
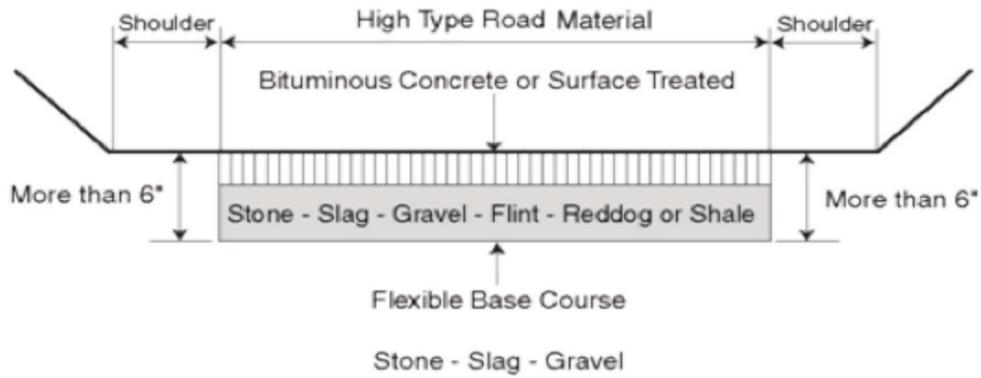
Roads with Flint, Reddog, Shale Base or any  
run of Bank Material or more than 6" Total  
Thickness, still remain Type (52)



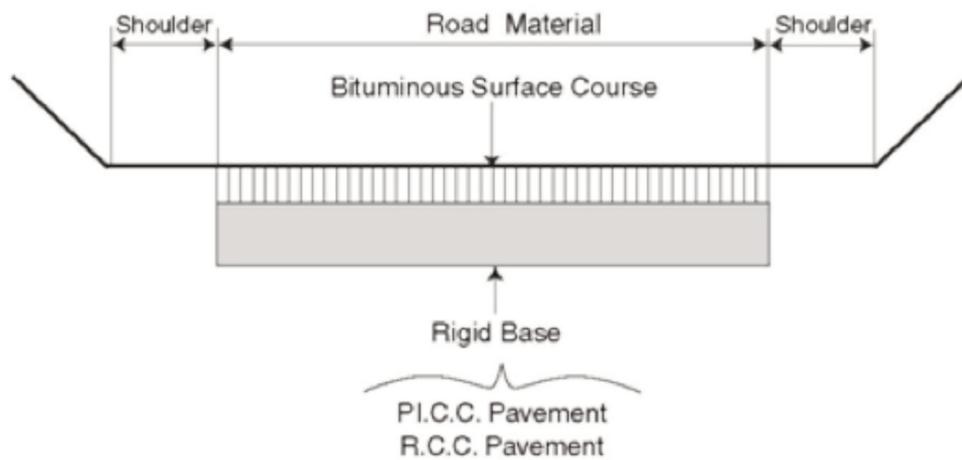
**TYPE 52 HIGHWAY**

**PAVEMENT TYPES (CONTINUED)**

(Reproduce Locally as needed)



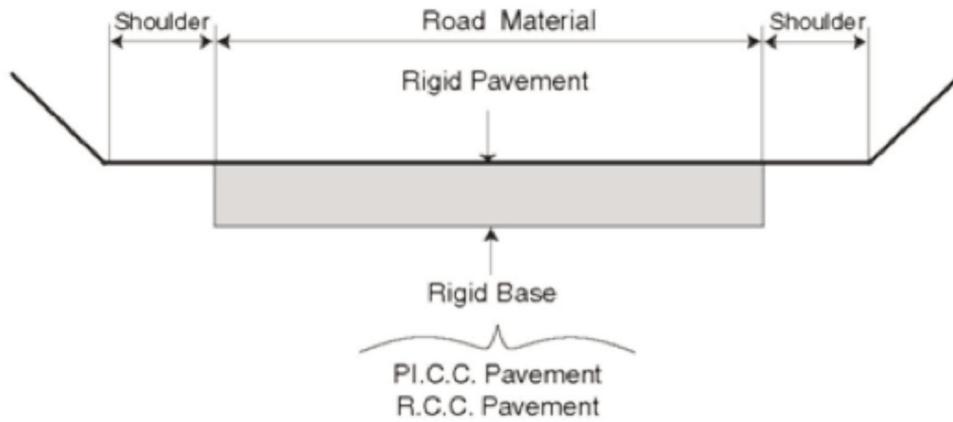
**TYPE 61 HIGHWAY**



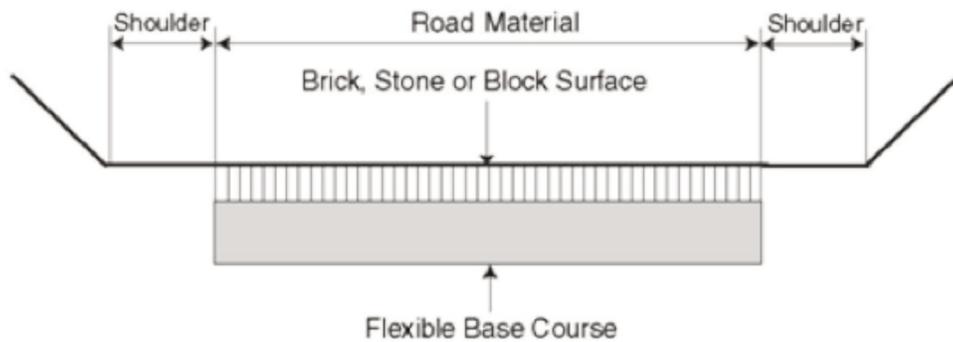
**TYPE 62 HIGHWAY**

### PAVEMENT TYPES (CONTINUED)

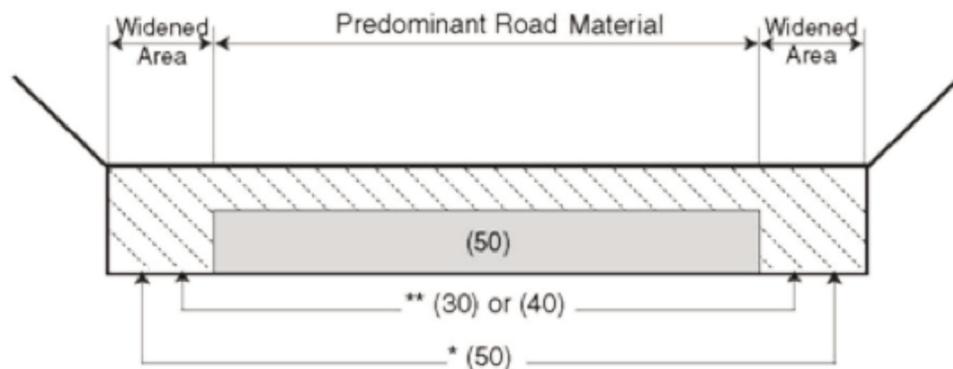
(Reproduce Locally as needed)



### TYPE 71 HIGHWAY

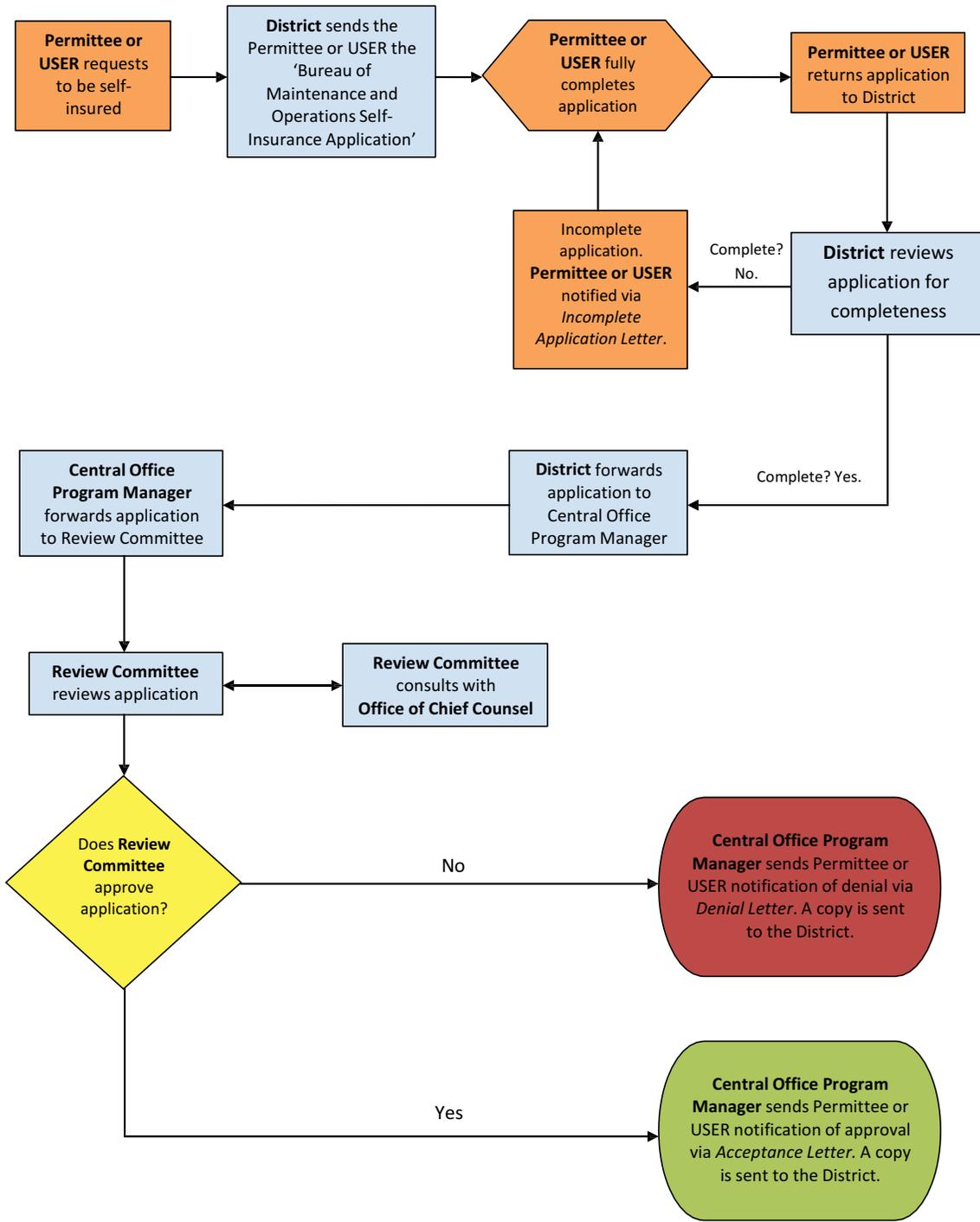


Block Surface consists of Wood or Asphalt Blocks



### TYPE 80 HIGHWAY

**Application and Review of Self-Insurance Process Flowchart  
Bureau of Maintenance and Operations**



**Cooperative Agreement:**

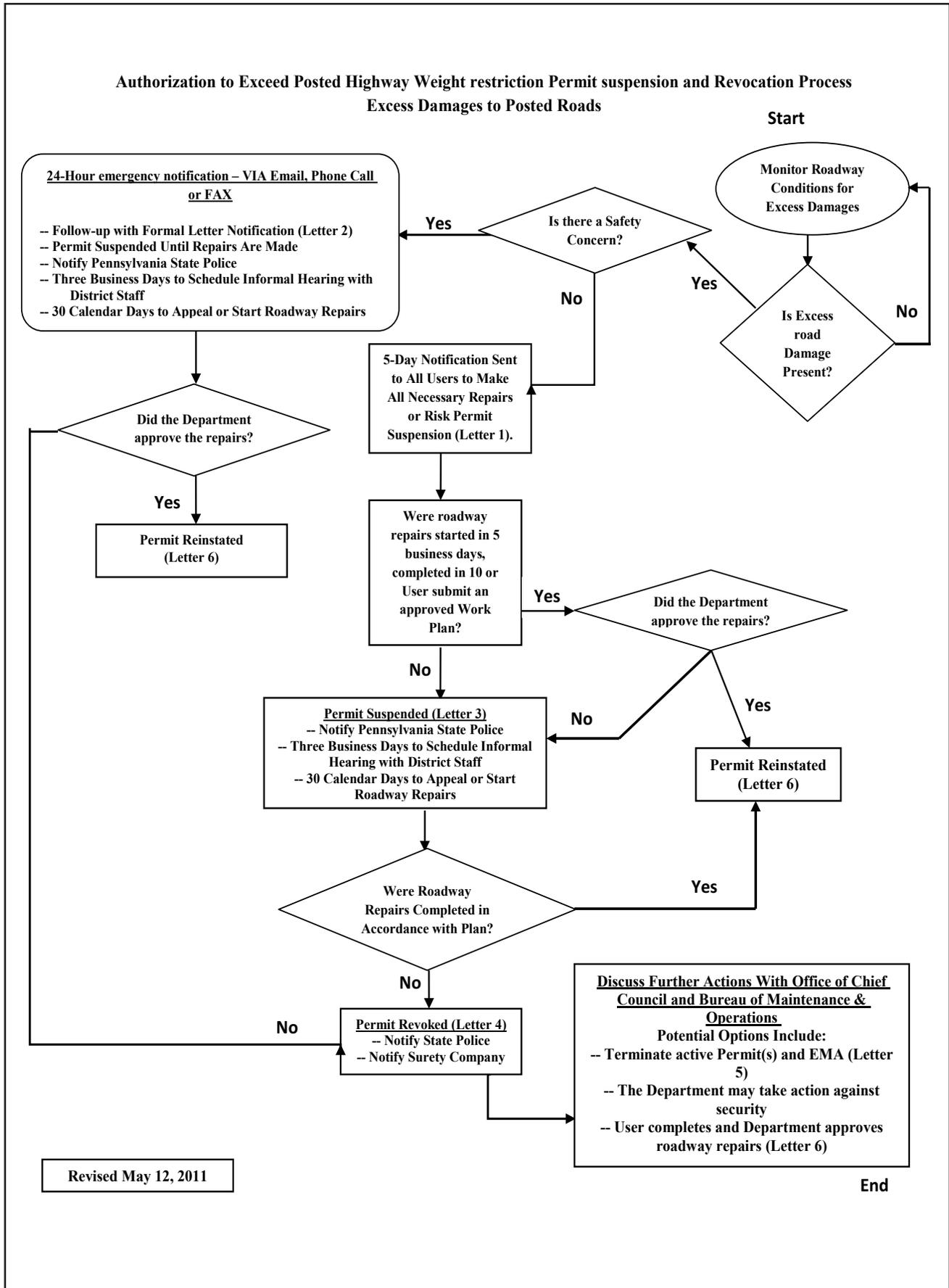
**Example: T-00036711UPG-4650-611-2**

CODE	POSITION	DESCRIPTION	EXAMPLE		
Project Key	1	“T” projects are for state projects entered directly into SAP	“T”		
Roadway System	3	This field character is not being utilized and should always be a “0”	“0”		
State Route	4-8	Enter the state route that pertains to the agreement	“00367”		
Sub Project	9	This field character shall be utilized to identify the private entity (a.k.a. Hauler) in the agreement. Please select the appropriate code from the following categories:	“1”		
				<i>Category</i>	<i>Code</i>
				Natural Gas	1
				Oil	2
				Timber	3
				Mining & Quarrying	4
				Agriculture	5
Utilities	6				
Manufacturing	7				
Phase	10	Due to the possibility of having multiple agreements on a state route and the benefit of having separate WBS elements in such cases; this field character shall be utilized to identify the number of the agreements on the state route. “1” indicated the first agreement, “2” indicates the second agreement, etc.	“1”		
Section	11-13	Due to these agreements being a function of an upgrade project, use “UPG” as the abbreviation for upgrade.	“UPG”		
Organization	15-18	Use the county maintenance organization code applicable to the agreement.	“0450”		
Program	20-22	Use program “611” indicating a special project.	“611”		
Participation Code	24	Use “2” for non-participating	“2”		

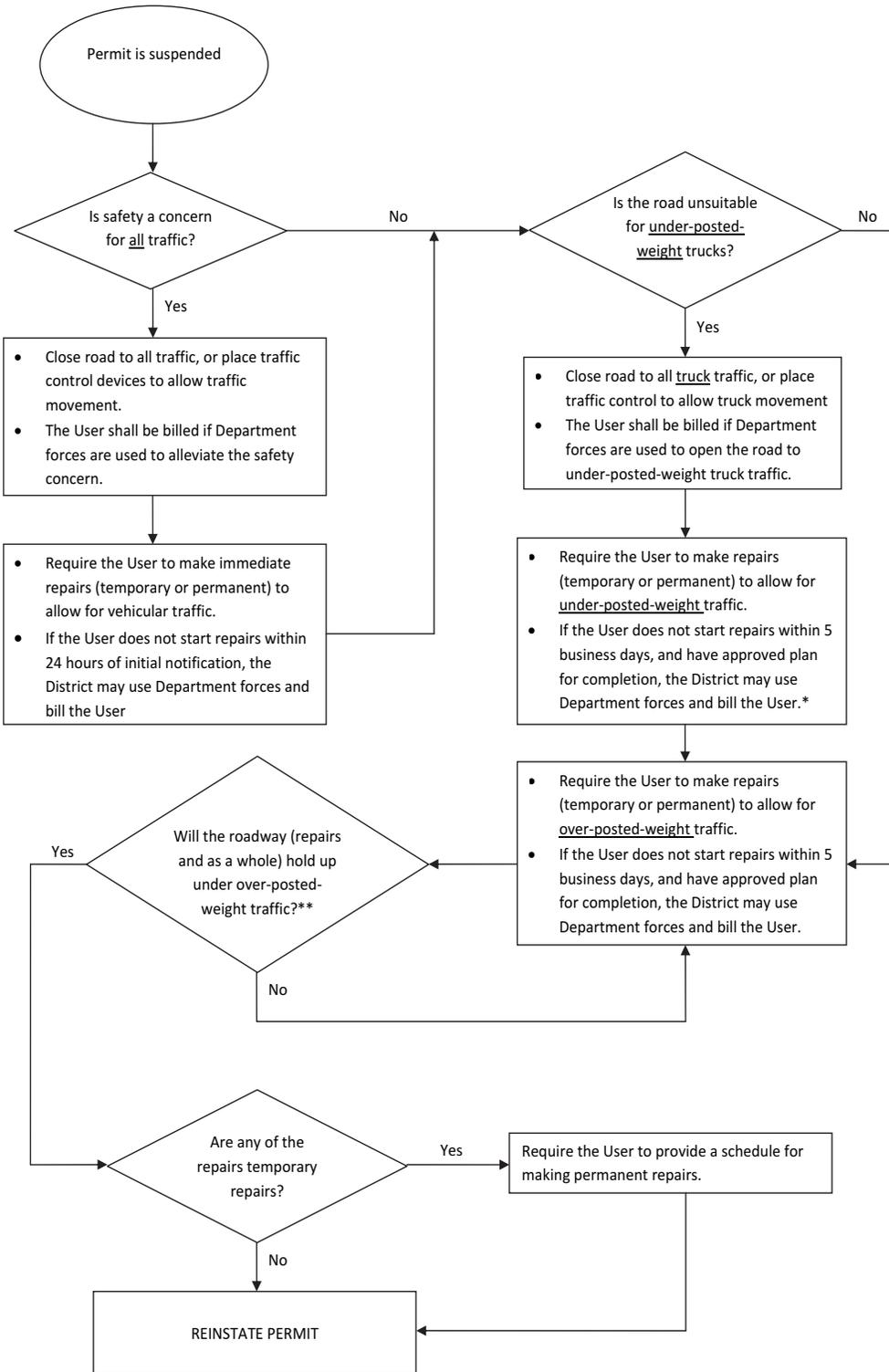
**Contribution Agreement:**

**Example: T-00036711UPG-0450-612-2 (State Project with no Federal Aid)**

CODE	POSITION	DESCRIPTION	EXAMPLE		
Project Key	1	“T” projects are for state projects entered directly into SAP	“T”		
Roadway System	3	This field character is not being utilized and should always be a “0”	“0”		
State Route	4-8	Enter the state route that pertains to the agreement	“00367”		
Sub Project	9	This field character shall be utilized to identify the private entity (a.k.a. Hauler) in the agreement. Please select the appropriate code from the following categories:	“1”		
				<i>Category</i>	<i>Code</i>
				Natural Gas	1
				Oil	2
				Timber	3
				Mining & Quarrying	4
				Agriculture	5
				Utilities	6
Manufacturing	7				
Phase	10	Due to the possibility of having multiple agreements on a state route and the benefit of having separate WBS elements in such cases; this field character shall be utilized to identify the number of the agreements on the state route. “1” indicated the first agreement, “2” indicates the second agreement, etc.	“1”		
Section	11-13	Due to these agreements being a function of an upgrade project, use “UPG” as the abbreviation for upgrade.	“UPG”		
Organization	15-18	Use the county maintenance organization code applicable to the agreement.	“0450”		
Program	20-22	Use program “612” indicating a special project - reimbursable.	“612”		
Participation Code	24	Use “2” for non-participating	“2”		



**Process Flow Chart to Reinstate a Suspended Permit**



\* If businesses with no alternate routes requires truck traffic, the District may require work to start in less than 5 business days.

\*\* If the District determines that the repairs will quickly deteriorate, other sections of the roadway will quickly deteriorate, or safety will become an issue, additional repairs should be required.

### Modification/Removal of Highway Weight Restrictions

