WHAT IS A HIGHWAY OCCUPANCY PERMIT (HOP)?

An HOP is used to complete projects within PennDOT right-of-way. Projects may include constructing a driveway, installing a utility, or other structures such as curbs, sidewalks and drainage facilities. An application must be submitted prior to any construction on the proposed site. PennDOT or other authorized users review designs to maintain the safety of the public. Activities, such as maintenance of existing driveways, do not require an HOP.

RECENT CHANGES TO HOP REGULATION

In the Summer of 2018, regulations were updated to clarify who can submit an HOP application. The changes clarified the right of a person or entity with legal interest in a property to apply for an HOP to install a driveway even if they are not the fee title holder provided the interest in the property includes the use requested. With this clarification, formal procedures to notify and include the fee owner in the HOP processes were added to the regulations to strike a careful balance between all persons or entities with legal interests in the property. This pamphlet presents the highlights of the current HOP application process when a non-fee owner is applying for the HOP.

Best Practices for Non-Fee Owner HOP Applicants

- Reach out to fee owners before applying for HOP.
- Clearly explain Applicant's legal interest in the property. The fee owner may not be aware someone has an easement or subsurface rights to the property.
- Clearly explain any short or long-term impacts.
- Be available to answer any questions.
- Provide a completed M-950 CFO form to the fee owner.
- Do not pressure or coerce a fee owner into signing any documents.

For more information, please contact the appropriate PennDOT Engineering District Permit Office

https://www.penndot.gov/Doing-Business/Permits/HighwayOccupancyPermits/Documents/HOP%20District%20and%20Central%20Office%20Contacts.pdf

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HIGHWAY OCCUPANCY PERMITS

QUICK REFERENCE GUIDE

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FEE OWNER

The person or entity that holds the fee title of the property.

NON-APPLICANT FEE OWNER ROLE DURING HOP APPLICATION

The fee owner must receive written notice of the Applicant's intent to submit an HOP application. The notice should specify the location of the proposed highway occupancy and inform the fee owner of their rights. The notice may include a request to sign a PennDOT form M-950 CFO (Consent of Fee Owner).

After receiving written notice, the fee owner may:

- Do nothing.
- Provide input to the local PennDOT District Office within 30 days of receipt of the notice. HOP Applicants are required to show proof of receipt of the notice. PennDOT will not grant or deny a permit application until after 30 days from the receipt of the notice.
- Consent to the HOP application by signing the M-950 CFO form.
- Protest the HOP application by writing to the local PennDOT District Office. Correspondence must include the name and address of the fee owner, the location of the proposed highway occupancy, the HOP application number, and a concise statement of the protest.
- File a Petition to Intervene with the PennDOT Administrative Docket Clerk.

Protests and Petitions to Intervene

Protests and Petitions to Intervene in PennDOT matters are formal legal options available under and governed by the General Rules of Administrative Practice and Procedure (1 Pa. Code, Chapter 35 and PennDOT's Practice and Procedure regulations at 67 Pa. Code, Chapters 491 and 493. The full text of the rules are available at http://www.pacodeandbulletin.gov/. Filing a protest does not make the protester a party to the HOP application, but the protest will be considered by PennDOT during its review of the HOP application.

Petitions to Intervene result in formal legal proceedings before an agency hearing officer and, if granted, may allow the intervenor access to the HOP application submissions and the opportunity to comment on those submissions. Please note that Petitions to Intervene do not sway PennDOT's review of a permit application.

Impacts from Neighboring Property HOP

Fee owners may also be notified if work associated with an HOP for a neighboring property will impact their land. The fee owner can agree to the proposed impacts or formally object through the protest or intervention procedures.

FEE OWNERS & APPLICANTS

Only an owner of the property, as defined by the regulations, can apply for an HOP. If the Applicant is not the fee owner, they must take specific steps to inform the fee owner of the application. For purposes of applying for an HOP, owners are one of the following:

- A person or persons who hold the fee title to a property.
- An estate or other legal interest in property, such as an easement, a lease, a license or subsurface rights. This includes mineral owners.
- An entity with an equitable interest in property under a sales agreement or an option to purchase.

Refer to 67 Pa Code, Chapter 441.1 for additional information about the definition of an owner.

Rights of Ownership

- Pennsylvania recognizes the rights of a mineral owner to develop the resource. Fee owners cannot prevent reasonable access to a mineral owner.
- Fee owners can find information on rights of Oil and Gas Leases at the PA Environmental website: http://dep.pa.gov.

Key Facts for Fee Owners

- You do not have to sign any documents if you do not approve of or understand.
- You may request a meeting with PennDOT District Staff to discuss an HOP application.
- You have a right to fair compensation from the Applicant for any damage or loss to property.
- You cannot unreasonably prevent a mineral or easement owner from accessing their property.