

# 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 (see Appendix 15-A) 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 \(a\), Restrictions Based on Condition of Highway or Bridge](#) and [67 Pa Code, Chapter 189, Hauling in Excess of Posted Weight Limits](#) and [67 Pa Code, Chapter 190, Letter of Local Determination-Statement of Policy](#).

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

This chapter does not pertain to bridges posted independently of highways as authorized under [67 Pa Code, Chapter 191, Authorization to Use Bridges Posted Due to Condition of Bridge](#). 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 notification of the applicant/bondee.

### SAFETY RESTRICTIONS

This chapter does not apply to restrictions based on traffic conditions (Safety Posting) as authorized under [75 Pa. C.S. § 4902\(b\), Restrictions based on traffic conditions](#) and [67 Pa Code, Chapter 193, Authorization to Use Highways Posted Due to Traffic Conditions](#). Refer to [Publication 46, Traffic Engineering Manual](#), Chapter 11.3 [Publication 212, Official Traffic Control Devices](#), §212.117(d) for safety restrictions that requires a permit under 67 Pa. Code, Chapter 193.

### SPECIAL HAULING PERMIT (APRAS)

All oversize/overweight permits shall be issued in accordance with [67 Pa Code, Chapter 179, Oversize and Overweight Loads and Vehicles](#) and the instructions contained in the Publication 31, *Special Hauling Permit Manual*.

A Special Hauling Permit, issued by way of via 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). Special Hauling Permit Applicants should avoid weight restricted highways when applying for an APRAS permit.

### 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** – Industries related to logging or other forest products experiencing a 20% decline in Statewide employment between March 2002 and March 2011, as determined by the Department of Labor and Industry . This shall remain in existence until December 31, 2023.

**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.

**DISTRICT** – The Pennsylvania Department of Transportation operates its Posted and Bonded Program through its eleven (11) Statewide District offices. Each District is in charge of operating a consistent program for their area.

**EMERGENCY VEHICLE** – As provided by [75 Pa C.S. § 102](#), *Definitions*, or other vehicle designated by the State Police under [75 Pa C.S. § 6106](#), *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](#) 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 over-posted-weight vehicles ([See Appendix 15-A for a comparison of Normal Maintenance Vs. Excess Maintenance on Paved Highways](#)).

**EXCESS MAINTENANCE AGREEMENT (EMA)** – This document is a contract between the USER and Posting Authority that explains the responsibilities of both parties and outlines how the USER will accept financial responsibility for excess maintenance on the posted roadway. Additional information about EMAs is provided in Section 15.12.

**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 –**

**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.

**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.

**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.

**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.

**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. ([See Appendix 15-A for a comparison of Normal Maintenance Vs. Excess Maintenance on Paved Highways](#))

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

**PERMIT** – Means Type 1, 2, or 3 permits defined below.

**TYPE 1 PERMIT** – Means a permit which authorizes use of a particular posted highway, or portion thereof, by an over-posted-weight vehicle. It is valid only when carried in the User's over-posted-weight vehicle.

**TYPE 2 PERMIT** – Means a permit which authorizes use of a particular posted highway, or portion thereof, by any number of over-posted-weight vehicles being driven to or from a common destination and is valid only when conspicuously displayed at the User's place of business.

**TYPE 3 PERMIT** – Means a permit which authorizes use of a number of specified posted highways, or portion thereof, by over-posted-weight vehicle and is valid only when carried in the User's over-posted-weight vehicle.

**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 overweight 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).

## 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, Engineering and Traffic Study for Restrictions as to Weight, Size, Kind or Class or Type of Load Based on Highway, Bridge, or Traffic Conditions](#) 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. Local ordinances should be established in accordance with [Publication 221, Posting and Bonding Procedures for Municipal Highways](#).

### 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 (5) 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. ([See section 15.5 for additional information about EMAs](#))

## ENFORCEMENT OF POSTED WEIGHT LIMITS

The User is responsible for monitoring vehicle weight and determining they are operating under the posted weight limit. The Posting Authority shall report possible violations to the appropriate law enforcement agency for enforcement.

## POSTING PROCEDURES

1. Identify need for a weight restriction on highway.
2. Conduct and document an Engineering and Traffic Study using the [TE-109](#). Weight restriction on a highway is warranted when one or more of the following conditions is present:
  - a. The highway pavement or shoulders have been weakened due to deterioration, high traffic volumes or climatic conditions and may be seriously damaged unless a restriction is imposed
  - b. An engineering evaluation of previous similar climatic conditions on the highway or on similar highways indicates that vehicles over a certain weight should have been prohibited
3. Determines weight limit based on [TE-109](#) \*
4. Approve posting
5. Enter posting into RMS system
6. Contact Known Users to either enter into an EMA or chose an alternate route
7. Publish public notice
8. Notify appropriate law enforcement agencies
9. Erect signs

\* Posting Authority shall consider a seasonal weight posting before recommending a permanent posting.

## 15.3 MODIFICATION/ REMOVAL OF HIGHWAY WEIGHT RESTRICTIONS

### LONG TERM 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., Posted and Bonded Roadway 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 plan shall be accepted as documented by a final construction inspection in accordance with PennDOT's [Publications 2](#) Section D.1.1 and [Publication 408](#) Section 110.08(a). If a final inspection and acceptance of the construction plan has not been completed, the request for a 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 Chapter 10](#). This study must demonstrate that the weight restriction could be modified or removed based on the Engineering and Traffic Study warrants covered in PennDOT [Publication 212 Section 212.117](#). 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 PennDOT [Publication 242 Chapter 5.9C](#).
6. The Posting Authority shall, within 15 calendar days of completing 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 \(Form M-4902RP\)](#) which must be signed by the District Pavement Manager, District Bridge Engineer, and the District Executive and shall be 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.

#### TEMPORARY MODIFICATION/REMOVAL DUE TO DETOURS

When conditions allow, the Posting Authority shall avoid directing a detour onto a weight restricted highway.

If a detour is necessary on a weight restricted highway, the Posting Authority shall follow the procedures in Publication 46 Chapter 6.14, Temporary Traffic Control. In the cases where a non-posted highway is being detoured onto a posted highway, the Posting Authority shall temporarily cover the weight posting signs during the duration of the detour. In the cases where a posted highway is being detoured onto another posted highway, both postings will remain in effect. The Posting Authority shall consider the condition of the highway, the amount and type of traffic to be carried, weather or freeze-thaw conditions, and the amount of time required for the detour on the weight restricted highway when making the determination to cover the weight posting signs.

Prior to covering the weight restriction signs, the Posting Authority shall notify all active USERS of the scheduled detour using the [Relief of User Maintenance Responsibilities Letter](#) (Form M-4902L18). A final inspection shall be completed by the Posting Authority at no cost to the USERS. If the final inspection determines that there is road damage and repairs and restoration are required, the final inspection shall become the interim inspection and the USERS shall be responsible for any repairs noted during the inspection. If the repairs are not completed in a timely manner, the Posting Authority shall complete the repairs and invoice the USER per Section 15.6, Agreement and Permit Administration. Once the repairs have been completed, a final inspection shall be scheduled and conducted.

The Posting Authority, or their contractor, shall conduct an initial video inspection of the impacted weight restricted highway prior to the installation of detour signs. The Posting Authority, or their contractor, shall conduct a final video inspection prior to the removal of the detour signs. The posted highway shall be restored to a condition at least equal to its pre-detoured condition, by the contractor, prior to the completion of the construction project. The costs of repairs prior to the removal of the detour signs, will be the responsibility of the Posting Authority, unless otherwise specified in the construction contract. Following the approval of the final inspection and the completion of the construction project, the Posting Authority shall notify the previous USERS of the posting re-establishment using the [Re-establishment of Roadway Posting Letter](#) (Form M-4902L19). An initial inspection shall then be completed by the Posting Authority at no cost to the USER.

The Posting Authority shall exercise discretion and may remove the detoured highway section from a USERS permit if the detour duration exceeds the estimated detour timeframe provided during design. USERS shall submit a completed M-4902APP with the corresponding highway location and associated security with that section. At the conclusion of the detour, the Posting Authority shall notify USERS of the posting re-establishment and instruct the USERS to resubmit the M-4902APP for the section of highway. An initial inspection shall then be completed by the Posting Authority at no cost to the USER.

If a PennDOT highway needs to be detoured onto a weight restricted municipal highway, the DEPARTMENT shall obtain concurrence from the local Posting Authority when establishing a DEPARTMENT approved detour on their facilities. It is not necessary to have an agreement with the local POSTING AUTHORITY; however, the DEPARTMENT is obligated to repair the approved detour to a condition at least equal to its pre-detour condition. When local highways are detoured onto a PennDOT's Posted highway, the DEPARTMENT shall cover the Posted Weight sign, but should also consider the condition of the highway, the amount and type of traffic to be carried, weather or freeze-thaw conditions, and amount of time required for the detour on the weight restricted highway when making the determination to cover the weight posting signs.

This section does not apply to restrictions to bridges posted independently of highways as authorized under [67 Pa Code, Chapter 191](#).

PennDOT Publication 46, Chapter 6, provides additional detour policies and guidance.

## 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 (LoLD) is not required for hauling activity which meets the requirements of the definition of local traffic. The District may, at its discretion and upon review of a completed application, issue a LoLD for hauling activities which meet

the definition of local traffic. Municipalities need to pass a separate ordinance to allow LoLDs. [Publication 221](#) offers guidance on how municipalities should handle local traffic.

## REVOCATION OF LOCAL TRAFFIC STATUS

In the event a District investigation (conducted via a documented inspection) determines that damages are the result of local traffic hauling activities, the hauler may be required to cease hauling activity and enter into an EMA. (See section 15.5 for additional information about EMAs)

As described in [67 Pa. Code, Section 189.3\(b\)](#), *Vehicles determined likely to damage highway*;

*“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](#). 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](#) and does not apply to:

1. Roads and bridges posted pursuant to [67 Pa. Code, Chapter 191](#),
2. [67 Pa. Code, Chapter 193](#),
3. [67 Pa. Code, Chapter 179](#),

On May 12, 2012, the PA Bulletin published [67 Pa. Code, Chapter 190](#) providing the Department’s Statement of Policy for issuing 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 LoLD. 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 LoLD 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 LoLD, a Type-1, -2, or -3 Permit (See [Section 15.5](#) for additional information about permit types) or self-certify. A completed application is required prior to issuance of a LoLD.

## DE MINIMIS CRITERIA

Hauling activity that cannot be self-certified, may qualify for a De Minimis LoLD if upon review of a completed application, the District determines that the scale of hauling activity and nature of business is not likely to cause damage to the requested routes based upon the District’s review of the structural capacity and condition of the route, and suitability of alternate routes. De minimis LoLD 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 LoLD, 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 LoLDs 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 District may also utilize additional evidences to determine the appropriate number of authorized loads/ESALS for each route as necessary. The District 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 LoLD.

Hauling related to unconventional oil and gas industries may qualify for a LoLD if, upon review of a completed application, the District 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 LoLD by filling out [M-4902APPL](#), *Application for Letter of Local Determination*.

A completed application for a LoLD 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 District 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 District



within 15 calendar days. An administratively complete application is required prior to the issuance of a LoLD.

In reviewing an application for a LoLD, the District 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 District will only evaluate the User's proposed routes based on the available state route network. Weight restricted municipal routes will not be evaluated by the District. If the User's proposed route includes any weight-restricted municipal route, the User 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 District within 20 calendar days after the application is received as administratively complete. The LoLD does NOT require an administrative (permit) fee, EMA, 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 LoLD.

■ **EXAMPLE:**

User A proposes to haul three (3) tri-axle (class 7 Vehicle) loads per day for six (6) days per week over the next twelve (12) weeks. The hauling takes place in July on flexible pavement. 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 LoLD? What is the equivalent ESAL value of the total hauling operation? Is this hauling operation under the sixty percent (60%) annual pavement life ESAL threshold allowed for the De minimis LoLD?

■ **SOLUTION:**

ESAL Factor for a tri-axle vehicle (Class 7 Vehicle) = 4.5 Equivalent ESAL value:  
three (3) loads/day x 4.5 x six (6) days/week x twelve (12) weeks = 972 ESALs  
Sixty percent (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 sixty percent (60%) threshold, this operation would be authorized under a LoLD pending the following factors: existing pavement condition, anticipated traffic volumes (new risks), historical roadway performance, and other available routes. Refer to Publication 242 to confirm the current ESAL values.*

The application for a LoLD shall be submitted by the User with sufficient time for the District to review prior to the User's anticipated start date of operations. The application must be reviewed and returned to the applicant noting the comments and actions of the District within 20 calendar days after the application is received as administratively complete. The LoLD does NOT require an administrative (permit) fee, EMA, 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 LoLD 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 LoLD may only be issued for the individually authorized routes within a single County and may not be issued for an entire District. The LoLD number (8 digits) shall be issued consistently with the direction provided in Section 15.5 regarding Assignment of Permit Numbers.

The most current LoLD, 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 District 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 (LOLD)

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

1. This determination may be terminated at any time by the Posting Authority in accordance with [67 Pa. Code, § 189.3\(b\)](#) 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 UserSER when a route (s) is no longer bonded by an unconventional oil and gas company. When a LoLD 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 LoLD 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\(c\)](#) 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 in which the vehicle is engaged.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 District. Additional restrictions may be required by the District 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/District should issue a Form [M-4902L17](#), *Freeze/Thaw reminder letter*, 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 District'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 LoLD. In this event, the District 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.

#### REVOCATION OF A LETTER OF LOCAL DETERMINATION

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

An at-risk LoLD 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 LoLD. Any hauler who has had a LoLD 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](#)) *Designation of Alternate Routes for Restricted Vehicles Engineering and Traffic Study*.

#### 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 ([See Appendix 15-C](#)).

- 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 ([See Appendix 15-D](#)). Individuals processing these agreements are encouraged to utilize this form and make it a permanent part of the agreement file.

Excess Maintenance Agreements do not carry expiration dates and for the purposes of this program will remain in an active state provided the User maintains security. If a User's security expires and no effort is made on the User's part to renew the security, the EMA shall be considered inactive. The Posting Authority may, at its discretion, send the User the "Inactive Excess Maintenance Agreement" Letter ([M-4902L16](#)) and file the EMA documents as per the Posting Authority's record retention policy.

**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 overweight vehicle belonging to the User. A Type 1 permit is valid only when carried in the over-posted-weight vehicle.

#### 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-posted-weight vehicle must carry a 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 provides authorization for the over-posted-weight vehicle use of several specified posted highways, or portions thereof. 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 is valid only when carried in the over weight vehicle belonging to the User.

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 overweight 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.

See Appendix 15-C for examples of the permit types.

#### 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

Form [M-4902ROE](#), *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.

#### SUPPLEMENTALS

**Application to Add or Remove Posted Highways-** The User can supplement their EMA with the Posting Authority by using the [Form M-4902APP](#). 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 Officials only - Maintain the information in RMS.**
6. The Posting Authority shall provide an [M-4902APR](#), *Approval to Add or Remove a Section of Highway*, to the User.
7. The Posting Authority shall issue new [M-4902A](#), *Authorization to Exceed the Posted Weight Limit*.

## 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 District 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 ([see Appendix 15-E](#)).

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 District 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, the contribution is recognized 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](#), *Excess Maintenance Assignment Agreement*. 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 (xyyyyy) 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 (yyyyy) 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 and Assigned #**

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 (xyyyyyyy) 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 EMAs, Upgrade Partnership Agreements, Contribution Agreements, Cooperative Agreements, and Assignment Agreements.

Posted Highway Permits and LoLDs are forms authorization (not a legal agreement) and may be issued by the District 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 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 User 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 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 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 Authorities 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 whether restoration work has begun ([See Appendix 15-F](#)).

([M-4902L1](#), *Excess Damage – 5 Day Notification – Repairs Needed*)

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. ([M-4902L3](#), *Excess Damage – Permit Suspension*)

The User must complete the roadway repair and/or reimburse the Posting Authority before the permits are reinstated. ([M-4902L6](#), *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 (See [Appendix 15-G](#) for more information):

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 ([M-4902L2](#), *Excess Damage – Immediate Repairs – Suspension of 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. ([M-4902L4](#), *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/operate over weight vehicles traversing any posted highway under the EMA, "Remedies" subsection (d). ([M-4902L5](#), *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. The User shall not cause any paved surface to deteriorate and revert to gravel, dirt, or mud. The User is also not permitted to track mud onto a highway under any circumstance.
  - 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](#), *Grade Crossing Manual*, 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](#), 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-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 conducted 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 maintained 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 equally among the Users. (See Section 15.8-9 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 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 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.

**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 15.6 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 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 three 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 (See Appendix 15-H to Review Inspection Process Charts)

### 1. Video of both directions of the roadway shall be recorded.

- 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 fifteen calendar days for all roadways bonded by Heavy User. 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 thirty 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 five-Day Letter ([M-4902L8](#), *Notification*)

of EMA Security/ Insurance Expiration. Depending on the level of damage found, an Interim Inspection can be conducted. Roadway Condition Surveys shall be performed no less than once per fifteen calendar days for all roadways bonded by Heavy Users.

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](#), "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 defined in [Section 15.1](#), shall not be billed to the User.

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).

Activity:	Cost:	Number of USER(s):	Level:	Remarks:
Agreement Processing & Administration	Actual	Single User	County WBS	All Users
Initial Inspection	Average	Single or Multiple Users	County 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 or Multiple Users	County WBS	All Users
Final Inspection	Average	Single User	Customer WBS	All Users
	Actual	Multiple Users	State Route WBS	All Users

## 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 AND FINAL INSPECTIONS

Districts and/or Counties shall create county-level WBS elements to track actual costs for Initial and Final



Inspections. District, County, and/or consultant staff engaged in Initial and Final inspections shall use the applicable WBS element to track actual cost data, so the cost can be periodically updated, but not more than once per year. The data obtained will be used to generate a statewide average per-mile inspection cost. The average costs should include travel to and from the inspection site and be rounded to the nearest hundredth of a mile. The first mile will include the average cost per mile plus cost for administration and travel mileage.

A statewide average unit cost per inspection mile shall be invoiced for each Initial and Final Inspection. Each inspection should be invoiced separately so the inspection report can be sent with the invoice and in case there is significant time between the Initial and Final Inspections which could result in a different average cost per mile.

A minimum invoice threshold will be applied to Regular and Heavy Users. Invoices under this threshold amount will be sent at that minimum threshold. For Regular Users, a maximum threshold will also be applied. These threshold amounts will be periodically updated, but not more than once per year.

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.

## INTERIM INSPECTIONS

Districts and/or Counties shall create state route and customer-level WBS elements to track actual costs for Interim Inspections. District, County, and/or consultant staff engaged in interim inspections shall charge the applicable WBS element. If a single USER is requiring an interim 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 interim 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.

## INTERNAL ORDERS

Internal orders have been established exclusively for invoicing/tracking heavy hauler User Heavy User cost as follows:

Order	Description
82570	Roadway Condition Survey
82571	Initial Inspection
82572	Interim Inspection
82573	Final Inspection
82574	Upgrade Construction Inspection
82575	Excess Maint. Repair Inspection
82576	Excess Maint. Damage Repair
82577	Plan Reviews
82578	Enforcement
82579	Agreement Processing & Administration

### WBS ELEMENTS - INITIAL INSPECTIONS

To track actual costs for Initial Inspections, county level WBS Elements must be created in SAP. For Initial Inspections one hundred percent (100%) of the inspection costs are tracked. An example of a correct county level WBS Element used to track the cost of Weight Restricted Posted Highway Initial Inspections for follows, together with a table of the individual codes:

CODE	POSITION	DESCRIPTION	EXAMPLE
Project key	1	Use □T□ to track costs and manage non-reimbursable project over fiscal years. □T□ projects are created directly in SAP.	□'□
Customer Number	3-10	Dummy Initial Inspection Number	□0INITA□
Section	11-13	Use □ISP□ for Weight Restricted Posted Highway Inspection.	□IS'□
Organization	15-18	The organization, one of the elements of the SAP Fund Center and Cost Center.	□036)□
Program (PGM)	20-22	The last three (3) digits of the SAP Fund. PGM 612- SPECIAL PROJECTS-REIMBURSABLE must be used.	□61!□
Participation Code (PC)	24	Use □2□ for nonparticipating.	□!□
NOTE: WBS Elements have 24 positions including the separators (dashes).			

### WBS ELEMENTS FINAL INSPECTIONS

To track actual costs for Final Inspections, county level WBS Elements must be created in SAP. For Final Inspections one hundred percent (100%) of the inspection costs are tracked. An example of a correct county level WBS Element used to track the cost of Weight Restricted Posted Highway Final Inspections follows, together with a table of the individual codes:

CODE	POSITION	DESCRIPTION	EXAMPLE
Project key	1	Use □T□ to track costs and manage non-reimbursable project over fiscal years. □T□ projects are created directly in SAP.	□'□
Customer Number	3-10	Dummy Initial Inspection Number	000FINAL□
Section	11-13	Use □ISP□ for Weight Restricted Posted Highway Inspection.	□IS'□
Organization	15-18	The organization, one of the elements of the SAP Fund Center and Cost Center.	0970□
Program (PGM)	20-22	The last three (3) digits of the SAP Fund. PGM 612- SPECIAL PROJECTS-REIMBURSABLE must be used.	□61!□
Participation Code (PC)	24	Use □2□ for nonparticipating.	□!□
NOTE: WBS Elements have 24 positions including the separators (dashes).			

District staff conducting Initial, Interim, or Final inspections of Weight Restricted Posted Highways must use the applicable WBS element(s) to track the actual cost for each type of inspection. The inspection type (i.e. Initial, Interim, or Final) must be entered in the invoice text. A copy of the inspection report must be included with each Initial, Interim, or Final inspection invoice.

### MULTIPLE INSPECTIONS – SAME DAY

When conducting multiple inspections on the same day; inspection staff shall track the mileage from their headquarters through the first inspection site to a county specific WBS element created for posted road inspection travel. Travel for any subsequent inspections shall be tracked starting at the end of the previous inspection through the current inspection. If in the rare instance there are multiple Users requiring an Initial or Final inspection concurrently, then the cost split shall be based on the percent of miles bonded by each User.



## 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* 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 enough 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-00000009MSH-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)ers. 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.

<b>EXAMPLE:</b>
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
<b>SOLUTION:</b>
<b>Percent Cost Allocation:</b> 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. If the User(s) do not perform emergency repairs (i.e., repairs needed within 24 hours); the District 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 District shall determine the appropriate cost split.

District 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 District 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 Management'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](#), *Irrevocable 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 District.
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 [M-4902L15, Returning of Self Insurance Letter](#) 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 [M-4902L13](#), [Acceptance of Self Insurance Letter](#) 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 [M-4902L14](#), [Denial of Self Insurance Letter](#).

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.

USERS with a primary place of business outside of Pennsylvania may have policies that do not provide for 15 days' advance notice when a policy is to be canceled for non-payment of premium. If the USER can only obtain public liability insurance that provides the POSTING AUTHORITY with 30 days of notice of cancellation and provides fewer than 15 days' advance of cancellation for non-payment premium:

1. The USER must submit proof of full prepayment from the insurance company for the insurance coverage during the policy period; and
2. The POSTING AUTHORITY must confirm annually by requiring the USER to submit the same proof of prepayment throughout the EMA term.

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 District will notify the User in writing ([M-4902L8](#)). If the User does not provide an updated security or insurance by the expiration date, the District will notify the User of their permit suspension ([M-4902L9](#)), *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 ([See Appendix 15-I](#)). 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. User needs to notify Posting Authority at least two (2) business days prior to final repair, so an inspector can be present.

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 Posting Authority 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 15.9 COST RECOVERY on or after the 10th, but no later than the 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 ([M-4902APR](#)) Letter 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 (See Appendix 15-K). 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 [M-4902EMA](#) specifies that a Maintenance Plan may be required and shall be considered physically attached to the EMA. The District shall determine if a [M-4902MP](#), *Maintenance Plan*, 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	2nd 24/7 Emergency Contact	Maintenance Contact
Primary Contact	Invoicing Contact	PennDOT Approved Contractor
1st 24/7 Emergency Contact	Permitting Contact	Supporting Engineer

The District may, at any time, request a list of anticipated pre-approved contractors and sub-contractors that must be provided by the User. Failure to provide the requested information may result in a permit suspension. The Heavy User may use a contractor or sub-contractor that is not on the list provided to the District if the contractor or sub-contractor is pre-approved by the District to perform the work.



## 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. The District may request that Heavy Users must provide, in 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 preventive and excess maintenance repairs shall be in accordance with [Publication 408](#) and be performed by a PennDOT pre-approved contractor. The District 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 appropriate Engineering District. Refer to Appendix 15-L for additional information about Pavement Types.

- A. **REPAIR STRATEGY:** Users will acknowledge that they will maintain and preserve the roadway and Legal Right of Way width to the extent impacted to its pre-existing condition. Heavy Users shall utilize Appendix A 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 [M-4902WRL](#), Weekly Repair Log for Roads Maintained Under an Excess Maintenance Agreement, 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 A. 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:** Acknowledge 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](#), *Temporary Traffic Control Guidelines*). Any diversion from the PATA drawings must be preapproved by the District. The User must contact their local District Traffic Management Center (TMC) prior to closing lanes. A listing of these is included on the M-4902MP.

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

- D. **ADVERSE WEATHER HAULING:** Acknowledge when and how to reduce the potential for road damage during freeze/thaw and wet periods.

- E. **LIMITING TRUCK TRAVEL:** Acknowledge 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:** Acknowledge effort (when and how) for coordinating with other permitted Users to maintain the roadway.
  - G. **ADDITIONAL CONSIDERATIONS AND COMMENTS:** Acknowledge 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 Districts shall retain ownership of milled material, guiderail, etc., and shall have the final decision as to its usage. The User shall acknowledge that it will coordinate with the Districts to determine the disposal of waste or surplus material. Heavy Users shall must provide a Quality Control Plan including winter sources and waste disposal sites in Appendix B.
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 should 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 Applications for Roadway Signing (Form [M-4902ARS](#), Posted and Bonded Roadway – Maintenance Plan Application for Roadway Signing). The completed application is to be included in the Heavy Users Maintenance Plan and can be submitted in the Maintenance Plan submission 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 or un-bonded posted roadway to assist with directing traffic on or to a posted bonded 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 PennDOT right-of-way. The signs must be manufactured by a PennDOT 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 [Section 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 User 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.

- **M-4902L10, Maintenance Plan Acceptance Letter:** The Acceptance Letter notifies the User the submitted Maintenance Plan has been received and approved. This letter can also be transmitted via email.
- **M-4902L11, 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.
- **M-4902L12, 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 [M-4902L6](#) 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 District 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 DOCUMENTATION AND PERMITTING (SECTION 404/ CHAPTER 105/ and 102 PERMITTING)

#### ENVIRONMENTAL COMPONENTS MATRIX FORM

Form [M-4902EV](#), *Environmental Matrix*, 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 District Posting and Bonding Coordinator who will forward to the District Environmental Unit. This form and associated coordination should be completed in advance of permit application preparation.

The form documents details of the project, environmental resources within the project area, potential impacts and potential mitigation measures planned for project construction. Links to assist the User with completing the environmental resources portion of the form can be found on [PennDOT's Categorical Exclusion Expert System webpage](#). You do not need to log into the system to access the provided links.

To determine if federal or state listed species may be affected by the project, a Pennsylvania Natural Diversity Inventory Environmental Review (PNDI ER) will need to be initiated (<https://conservationexplorer.dcnr.pa.gov/>). Once a PNDI ER receipt is generated, it may direct the USER to provide further information to agencies or may direct the User to further evaluate the project in the federal [Information for Planning and Consultation \(IPaC\)](#) online review process. The User should complete these steps to determine what measures may be necessary to protect threatened or endangered species or species of special concern. This process and results should be documented on Form [M-4902EV](#). Please allow at least thirty (30) calendar days for agency responses, if the PNDI ER receipt directs the User to coordinate with agencies.

To determine if cultural resources will be affected by the project, coordination with the PA State Historic Preservation Office (PA SHPO) should occur. Instructions for PA SHPO coordination can be found on the [Environmental Review website](#), which will include completing a Project Review Form. Please allow at least thirty (30) calendar days for a response from the PA SHPO.

User needs to notify Posting Authority at least two business days prior to final repair, so an inspector can be present.

Both cultural resource coordination and threatened or endangered species coordination will need to be included as part of permit applications described in this section.

## SECTION 404/CHAPTER 105 WATER OBSTRUCTIONS AND ENCROACHMENT PERMITTING

Any activity that involves the placement of fill in jurisdictional watercourses and wetlands, or also referred as Waters of the U.S. (WOTUS) requires a federal Section 404 authorization and state PA Chapter 105 authorization. Section 404 of the Clean Water Act (CWA) establishes a program to regulate the discharge of dredged or fill material into waters of the United States, including wetlands. Activities in waters of the United States regulated under this program include fill for development, water resource projects (such as dams and levees), infrastructure development (such as highways and airports). The U.S. Army Corps of Engineers (USACE) has permitting authority for projects that propose encroachments into WOTUS. Isolated wetlands only require PA Chapter 105 authorization, but only the USACE and U.S. Environmental Protection Agency can determine whether a wetland is isolated and not jurisdictional from a federal perspective. The PA Chapter 105 program is administered by the PA Department of Environmental Protection (DEP), but in some counties, DEP has delegated authority under the Chapter 105 program to County Conservation Districts (CCDs). In these counties, the conservation districts are responsible for reviewing and authorizing certain Chapter 105 permits. A Chapter 105 permit is required for projects involving the construction, modification, or relocation of any dam, water obstruction, or encroachment. The Act defines encroachment as “any structure or activity that in any manner changes, expands, or diminishes, the course, current, or cross-section of any watercourse, floodway, or body of water,” which includes wetlands.

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, which includes federal authorization via the Pennsylvania State Programmatic General Permit (PASPGP). 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. For a complete list of PASPGP conditions, please review the appropriate USACE district website. For a complete list of GP-11 conditions, please review the PA DEP Chapter 105 program website.

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

For any earth disturbance activities, the User shall develop, implement, and maintain best management practices (BMPs) to minimize the potential for accelerated erosion and sediment pollution and to manage post construction stormwater. DEP administers the Chapter 102 program, but in some counties, has delegated authority to CCDs.

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 (after the consideration of roadway maintenance activity areas), 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 (after the consideration of roadway maintenance activity areas) 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.

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

#### 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.

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 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.

## RIGHT-OF-WAY PLANS

A right-of-way plan is required where right-of-way will be conveyed to PennDOT. This plan should be developed in accordance with Publication 14M, Design Manual Part 3, Chapter 3. The right-of-way plan serves several purposes, including documentation of the highway right-of-way for future use by PennDOT (and others) and a means to ensure 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:

1. Be entitled Drawings Depicting Right-of-Way to be deeded to PennDOT
2. Be reviewed by the appropriate Central Office Field Liaison Engineer and the District maintenance and right-of-way units

The Drawings Depicting Right-of-Way to be deeded to PennDOT does not transfer title but only document the State highway right-of-way for future reference. Appendix 15-M provides a Checklist for Right-Of-Way Acquisition Procedures for Excess Maintenance Work.

## CONVEYANCE OF RIGHT-OF-WAY TO PENNDOT

Needed State Highway right-of-way is usually conveyed to PennDOT from the User 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.

**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 ensure 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: 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.

**DEED OF CONVEYANCE** – [Form M-4902E](#), *Deed of Easement*, should be used for the conveyance of the deed. 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 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. 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 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 surveyor 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.

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 ensure proper right-of-way is acquired.

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

## 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 [\(M-4902EV\)](#), *Environmental Components Matrix Form*. 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 15.14** ("Environmental Permitting/Clearance). Additional guidance from the District environmental unit should be obtained if there are any outstanding environmental concerns or questions.

## 15.16 USER UPGRADE PLAN

### INTRODUCTION

This section refers to upgrade projects that are fully funded by the User. For a project that is partially funded by the User and partially funded by the Department, the standard project delivery approach (DM-1) should be followed.

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.

When a User elects to upgrade a roadway or bridge, the District will assign appropriate staff to ensure a timely and prompt review of all submissions.

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 District 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 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* and *Section 15.9*.

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 EMA, 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](#), *User Road Upgrade Plan Checklist*).

### 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](#), Chapter 7, *Traffic Analysis for Pavement Design*. 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 User. Upon completion of the coring operations holes must be filled with suitable material and compacted. Refer to [Publication 242](#), Chapter 10, *Pavement Overlay Design*, 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 District. 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 in Table 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 to 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 User 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](#), *Highway Occupancy Permit Guidelines*, policies.

### USER Upgrade Design and Plan Preparation

1. **Upgrade Design** – Design of the Upgrade Plans shall consider items as discussed in [Publication 242, Chapter 3, Pavement Type Determination, 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, Chapter 7, Paved Surfaces, 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](#).
4. Upon the receipt of a User upgrade design plans, the District shall review the design plans and approve or reject the design plans within fifteen (15) calendar days. Exemptions to the fifteen (15) day timetable include, but are not limited to, staffing issues and holidays.
5. **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, Approved Products for Lower Volume Local Roads](#). PennDOT guidance is provided in [Publication 242, Chapter 5](#) and [Publication 447](#).

6. **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. 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.**

7. **Upgrade Schedule** – The upgrade improvements schedule should be coordinated and approved by the District, to verify there are no impacts to construction or maintenance projects scheduled by PennDOT. Review Construction / Holiday Restrictions with the District before starting work.
8. **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.**

9. **Construction Materials** – All materials used to construct the upgrades shall be approved products as indicated in Publication 35 - *Qualified Products List for Construction (Bulletin 15)*. Provide Source of Supply forms (CS-200 or CS-201) for Department approval per [Publication 408](#), Section 106.02.
10. **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.
11. **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](#) – *Waste Site Evaluation Procedures for the Highway Project Development Process*.
12. **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.
13. **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 EMA. The District may require further evaluation and/or accept the work for final placement at the District Executive’s discretion.
14. **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.

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.

- 15. Drainage Issues** – Current or potential drainage and stormwater issues should be documented and identified. Refer to [Publication 23, Chapter 8](#), which includes background on the [Act of Jun. 1, 1945, P.L. 1242, No. 428](#), *State Highway Law*, the [Act of Oct. 4, 1978, P.L. 864, No. 167](#), *Stormwater Management Act*, 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](#), Chapter 12, Section.
- [Publication 23](#), Chapter 7, Appendix A.
- [Publication 10](#), 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 eighteen (18) foot 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 twenty-four (24) inches of the outside rails and PennDOT is responsible outside the twenty-four (24) inches. 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, [Publication 371](#), *Roadway Construction Standards and Publication 111M*, *Traffic Control – Pavement Markings and Signing Standards TC-8600 and TC-8700 Series*. 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](#). 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 are 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 District 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](#), [25 Pa Code Chapter 92a](#), [25 Pa. Code Chapter 105](#), and any other applicable Federal, State, or local laws, ordinances or regulations. See [Section 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 [Section 15.14](#). Deed of Easement (as needed) Discuss any needs for a deed of easement as described in [Section 15.15](#).

## **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 – District Schedules Inspection**

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

### **Step 3 – Inspection**

The District 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 District 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 District. The District 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 District finds no corrective or additional work is needed as noted by the Inspector, and all work was completed within specification, the District will issue a letter of Upgrade Project Acceptance [M-4902UA](#),



*Roadway Upgrade Acceptance Form*, 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.