

# PROPOSED RULEMAKING

## DEPARTMENT OF TRANSPORTATION

[ 67 PA. CODE CH. 441 ]

### Access to and Occupancy of Highways by Driveways and Local Roads

The Department of Transportation, Bureau of Maintenance and Operations, under the authority in section 420 of the State Highway Law (act) (36 P. S. § 670-420), proposes to amend Chapter 441 (relating to access to and occupancy of highways by driveways and local roads) to read as set forth in Annex A.

#### *Purpose of this Chapter*

The purpose of Chapter 441 is to regulate the location, design, construction and maintenance of driveways, local roads and structures within State highway right-of-way to provide safe and efficient transportation operations, security, economy of maintenance and preservation of proper drainage while authorizing safe and reasonable access to the highway.

#### *Purpose of this Proposed Rulemaking*

The purpose of this proposed rulemaking is to better reconcile the needs of motorists operating in normal highway traffic and the needs of motorists entering or leaving State highway right-of-way from adjacent property. Except with respect to limited-access highways, owners of property adjacent to State highways have a right of reasonable access. At the same time, the efficiency and safety of a highway is affected by the amount and type of interference caused by accessing traffic. As the number of access points onto a highway increases, the ability of the highway to provide for the unimpeded and reasonably safe movement of traffic is diminished.

The proposed rulemaking includes amendments to address two areas: 1) to clarify who can apply for a permit or who can submit the permit application, or both; and 2) to update out-of-date sections of the regulations.

To clarify who can apply for a permit, the definition of "owner" is proposed to be expanded to allow additional people with an interest in the property to apply. To broaden who can submit an application, the term "agent" is proposed to be added to § 441.1 (relating to definitions) to allow an agent to submit on behalf of the owner.

To update out-of-date sections, the proposed rulemaking includes amendments to address the following: to incorporate the use of the Department's Electronic Permitting System; to delete the permit fees from the regulations and to provide provisions that allow the Department to publish the permit fees in the *Pennsylvania Bulletin*; to update sight distance requirements by replacing the values, tables and formulas with a reference to Department Publication 13M (Highway Design Manual) which uses the American Association of State Highway and Transportation Officials' (AASHTO) Intersection Sight Distance and AASHTO's Stopping Sight Distance; to replace driveway design criteria and layout figures with references to Department Publication 282 (Highway Occupancy Permit Manual), where the information will be placed; and to update outdated references and definitions so terminology is consistent with current Department usage in other regulations, policies and publications.

#### *Significant Provisions of the Proposed Amendments*

Significant amendments to the chapter include the following:

The proposed amendments to § 441.1 include the addition definitions of "agent," "Deputy Secretary," "Electronic Permitting System," "fee owner," "intersection sight distance," "local governments" and "owner." These terms are proposed to be added because they are used in other amendments throughout this chapter.

The definitions of "combination," "director," "Form 408," "intermediate island," "own," "roadway construction standards," "setback," "turning radius" and numerous Department publications are proposed to be deleted. These terms are proposed to be deleted because they are either replaced with more appropriate terms or no longer used in this chapter.

The definitions of "Central Permit Office," "low volume driveway" and "medium volume driveway" are proposed to be amended to make corrections or to clarifications.

Proposed amendments to § 441.3(b) (relating to permit application procedure) state that permit applications must be in the name of the owner or, when applicable, the owners of the property or a local government. If the owner who is applying for the permit is not the fee owner or a local government, the applicant will be required to notify the fee owner that an application has been submitted and to secure the approval of the fee owner or to indemnify the Commonwealth, in a form acceptable to the Department, against an action which the fee owner may bring against the Commonwealth regarding the permit or permit application.

The term "own" is proposed to be replaced by "owner" and "fee owner" in § 441.1. "Owner" is defined as a person who holds fee title to land or a person who holds an estate or other legal interest in property, such as an easement, a lease, a license, subsurface rights or an equitable interest under a sales agreement or option to purchase. "Fee owner" is defined as a person who holds fee title to land or a tenant in a lease that will not terminate within 15 years of the permit issuance date.

Proposed amendments to § 441.3(b) further state that a permit application shall be submitted by the applicant or by an agent on behalf of the applicant, in which case the application must be accompanied by an agent authorization form acceptable to the Department.

Proposed amendments to § 441.3(c) and (e)(1) require applicants to use the Department's Internet-based Electronic Permitting System to submit applications. Language is proposed to be added that will allow the Department to accept paper applications if necessary.

Further proposed amendments to § 441.3(e) accommodate the use of the Electronic Permitting System by deleting the requirement to submit five sets of plans, references to microfilming as the permit plans will be stored electronically and, under payment, "by check or money order" to allow for electronic payment.

Proposed amendments to § 441.4 (relating to permit fees) replace the existing fees with a paragraph that states the Department will prescribe a fee schedule for application processing, review of the application and associated materials, permit inspection, permit supplement and miscellaneous fees payable to the Department in connection with permits. The fee schedule will be

published in the *Pennsylvania Bulletin*. The Department may periodically review and revise the schedule and publish a revised schedule in the *Pennsylvania Bulletin*. The fees will not exceed the approximate reasonable cost to process the application, review the application and associated materials, record and issue the permit, amend the permit and inspect the permitted work.

Proposed amendments to § 441.5(a) (relating to issuance of permits) delete the text that states the permit will serve as a receipt for the fees accompanying the application because review fees will not be invoiced and collected until after the permit has been issued.

Proposed amendments to § 441.5(e)(1) and §§ 441.8(m)(3) and 441.10(b)(2) (relating to driveway design requirements; and penalties and enforcement) replace “director” with “Deputy Secretary or a designee” to be consistent with policy currently being used by the Department.

Proposed amendments to § 441.5(h) state that when the permitted work has been completed the permittee shall provide written notification to the district office instead of stating that the permittee shall mail the Department form/post card.

Section 441.5(i) is proposed to be deleted because permits, permit plans and other material will be stored electronically using the Electronic Permitting System.

Proposed amendments to § 441.8(a) and (b) delete references to the driveway configuration figures in § 441.9 (relating to driveway layout illustrations) and instead reference the figures in Department Publication 282.

Proposed amendments to § 441.8(h) replace the desirable sight distance values in Tables 1—6 with references to the intersection sight distance in Department Publication 13M. The minimum acceptable sight distance formula is proposed to be deleted. If the intersection sight distance is impractical or infeasible to achieve, the applicant may use the stopping sight distance in Department Publication 13M. The proposed rulemaking still requires longer intersection sight distance when attainable to allow for better operation of the driveway and State routes.

Proposed amendments to § 441.8(i)(4) delete Figure 1 and references Department Publication 282 for design standards and guidelines.

Proposed amendments to § 441.8(i)(5) delete the design restrictions and figures for driveway aprons and depressed curb and instead references Department design standards.

Section 441.9 is proposed to be deleted. References to the figures and illustrations in this section throughout this chapter have been updated to reference the standard access configuration details in Department Publication 282.

#### *Persons and Entities Affected*

This proposed rulemaking will affect property owners, including municipalities, who propose to create an access to a State highway or to significantly change the design, operation or location of an existing access. The affected persons will be required to submit to the Department applications and plans for permits which detail the particulars of the proposed occupancy in accordance with this proposed rulemaking.

#### *Fiscal Impact*

This proposed rulemaking should not increase costs for the Commonwealth or local governments. Costs to the

Commonwealth may decrease if the fees are increased through periodic publication in the *Pennsylvania Bulletin* to help offset the cost of the highway occupancy permit program.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 14, 2012, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

#### *Sunset Provisions*

The Department is not establishing a sunset date for these regulations since these regulations are needed to administer provisions required under section 420 of the act. The Department, however, will continue to closely monitor these regulations for their effectiveness.

#### *Public Comments*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Charles Goodhart, Director, Bureau of Maintenance and Operations, Department of Transportation, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120-0064 within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

#### *Contact Person*

The contact person for this proposed rulemaking is Glenn C. Rowe, Division Chief, Traffic Engineering and Operations, Bureau of Safety and Traffic Engineering, Department of Transportation, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17108-2047, (717) 783-6479.

BARRY J. SCHOCH, P.E.,  
*Secretary*

**Fiscal Note:** 18-433. No fiscal impact; (8) recommends adoption.

### **Annex A**

#### **TITLE 67. TRANSPORTATION**

#### **PART I. DEPARTMENT OF TRANSPORTATION**

#### **Subpart B. NONVEHICLE CODE PROVISIONS**

#### **ARTICLE III. HIGHWAYS**

#### **CHAPTER 441. ACCESS TO AND OCCUPANCY OF HIGHWAYS BY DRIVEWAYS AND LOCAL ROADS**

#### **§ 441.1. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

**Agent**—A person who is authorized to act on behalf of the owner.

*Central Permit Office*—The Department office for the control of issuance of permits located at:

Pennsylvania Department of Transportation  
[ Central Permit Office ]  
Bureau of Maintenance and Operations  
400 North Street, 6th Floor  
Harrisburg, Pennsylvania [ 17120-0041 ] 17120-0064

[ *Combination*—Two or more vehicles physically interconnected in tandem. ]

\* \* \* \* \*

**Deputy Secretary**—Deputy Secretary for Highway Administration.

[ *Director*—The director of the Department's Bureau of Highway Services. ]

\* \* \* \* \*

**Electronic Permitting System**—The Department's web application used to submit, review, track and store highway occupancy permits, applications, plans, documents and engineering studies.

*Equipment*—All machinery and equipment, together with the necessary supplies for upkeep and maintenance, and also tools and apparatus necessary for the proper construction and completion of the work.

**Fee owner**—A person who holds fee title to land or a tenant in a lease that does not terminate within 15 years of the permit issuance date.

[ *Form 408*—The latest revision of highway construction specifications issued by the Department. ]

\* \* \* \* \*

[ *Intermediate island*—The section of right-of-way between driveways from the pavement edge or curb to the property line. ]

**Intersection sight distance**—The distance required by a driver traveling at a given speed to perceive the presence of potentially conflicting vehicles in sufficient time to stop or adjust his speed to avoid colliding in the intersection.

\* \* \* \* \*

**Local governments**—Townships, cities, boroughs, incorporated towns, home rule municipalities and counties.

*Local road*—Every public highway other than a State highway. The term includes existing or proposed streets, lanes, alleys, courts, and ways.

*Low volume driveway*—A driveway used or expected to be used by more than 25 but [ less ] not more than 750 vehicles per day.

\* \* \* \* \*

*Medium volume driveway*—A driveway used or expected to be used by more than 750 but [ less ] not more than 1500 vehicles per day.

\* \* \* \* \*

[ *Own*—To hold title to land or a building or be a tenant in a lease that will not terminate within 15 years of the permit issuance date. ]

**Owner**—A person who holds fee title to land or a person who holds an estate or other legal interest in property, such as an easement, a lease, a license, subsurface rights or an equitable interest under a sales agreement or option to purchase.

\* \* \* \* \*

[ *Publication 43*—A Department publication, sometimes called "Bulletin 43," containing requirements for the maintenance and protection of traffic on construction projects.

*Publication 68*—A Department publication containing regulations governing the design, location, and operation of all official traffic signs, signals, and markings on and along highways.

*Publication 90*—A Department publication containing requirements for work area traffic control during highway maintenance operations and utility work. ]

\* \* \* \* \*

[ *Roadway construction standards*—Department Publication No. 72 containing the Department's design standards for roadway construction. ]

\* \* \* \* \*

[ *Setback*—The lateral distance between the right-of-way line and the roadside building, liquid fuel pump island, display stand, or other object, which will result in space for vehicles to stop or park between such objects and the right-of-way line. ]

\* \* \* \* \*

[ *Turning radius*—The radius of an arc which approximates the turning path of the exterior corner of a vehicle. ]

\* \* \* \* \*

§ 441.3. Permit application procedure.

\* \* \* \* \*

(b) *Who may [ execute applications ] apply for a permit.* Permit applications shall be submitted in the name of [ and executed by ] the owner of the property or in the name of a local government.

(1) If the applicant who is applying for the permit is not the fee owner of the property or a local government, the applicant shall notify the fee owner that an application has been submitted. The applicant is required to do either of the following:

(i) Secure the approval of the fee owner to submit the application.

(ii) Indemnify the Commonwealth, in a form acceptable to the Department, against an action which the fee owner may bring against the Commonwealth relating to the permit or permit application.

(2) Permit applications may be submitted by an agent on behalf of the applicant if accompanied by an agent authorization form acceptable to the Department.

(c) *Where to submit [ application ] applications.* [ Permit applications shall be submitted to either the district or county office having jurisdiction over the county in which the proposed work will be

performed. ] Permit applications shall be submitted through the Department's Internet-based Electronic Permitting System, which can be accessed through the Department's web site. If necessary, the district or county office having jurisdiction over the county where the proposed work will be performed may accept paper applications and supporting documents.

\* \* \* \* \*

(e) *Application procedure and required information.* Permit applications:

(1) Shall be submitted through the Department's Electronic Permitting System. At the Department's discretion, applications may be submitted in person or by mail on a properly completed Department [ Form M-945A ] application form.

\* \* \* \* \*

(3) Shall include [ five sets of ] plans, of a quality sufficient for [ microfilming ] electronic storage and in a form acceptable to the Department, detailing the location and pertinent dimensions of both the proposed installation and related highway features.

(4) Shall [ be accompanied by a check or money order, payable to the Department, ] include payment in the appropriate amount, as set forth in § 441.4 (relating to permit fees).

\* \* \* \* \*

(f) *Traffic control plan.* Submission of the traffic control plan shall be as follows:

\* \* \* \* \*

(3) The traffic control plan shall be either of the following:

(i) A detailed drawing, showing all traffic control devices.

(ii) [ a ] A reference to a standard drawing found in [ Publication 43 or Publication 90 ] Publication 213 (Temporary Traffic Control Guidelines), provided the referenced standard drawing properly depicts the work area and completely addresses the needed traffic control.

\* \* \* \* \*

(h) *Drainage release for other than minimum use driveways.* If it can reasonably be anticipated that there will be an increase in the flow of water onto the property of some other person as a result of action, authorized by the permit, a drainage release shall be submitted with the application. Where possible, drainage releases [ —Form L-15 or CC-15— ], in a form acceptable to the Department, will be obtained, by and at the expense of the applicant, from all property owners over whose land additional drainage will flow. All drainage releases shall be notarized and recorded, by and at the expense of the applicant, in the County Office of the Recorder of Deeds. If a drainage release cannot be obtained from any affected property owner, the Department may nonetheless issue a permit if it determines that there is no reasonable and prudent alternative available to the applicant and the applicant executes an indemnification [ agreement ] acceptable to the Department.

\* \* \* \* \*

§ 441.4. Permit fees.

[ (a) *Permit issuance fees.* Issuance fees shall be used to defray costs incurred by the Department in reviewing and processing the application and plan, including the preliminary review of the site location identified in the application, and issuing and processing the permit.

(1) Issuance fees shall be as follows:

- (i) Minimum use driveways—\$15.
- (ii) Low volume driveways—\$30.
- (iii) Medium volume driveways—\$40.
- (iv) High volume driveways—\$50.

(2) Supplement fee each six-month time extension or each submitted change shall be—\$10.

(b) *General permit inspection fees.* General inspection fees shall be used to defray costs incurred by the Department in spot inspection of permitted work or subsequent inspection after the permitted work has been completed, to insure compliance with the permit and this chapter; they shall be as follows:

- (1) Minimum use driveway—\$10 each.
- (2) Low volume driveway—\$20 each.
- (3) Medium volume driveway—\$35 each.
- (4) High volume driveway—\$50 each. ]

(a) *Fee schedule.* The Department will prescribe a fee schedule for application processing, review of the application and associated materials, permit inspection, permit supplement and miscellaneous fees payable to the Department in connection with permits.

(1) The fee schedule will be published in the *Pennsylvania Bulletin*.

(2) The Department may periodically review and revise the schedule and publish a revised schedule in the *Pennsylvania Bulletin*.

(3) The fees will not exceed the approximate reasonable cost to process the application, review the application and associated materials, record and issue the permit, amend the permit and inspect the permitted work.

[ (c) ] (b) *Exemptions.* [ Permit issuance fees and general permit inspection fees shall not be ] Application processing, application review, permit inspection and permit supplement fees are not payable by any of the following:

\* \* \* \* \*

[ (d) *Additional inspection fees.* If the Department determines that the permitted work is of sufficient magnitude or importance to warrant assignment of one or more employes to inspect the permitted work on a more than spot inspection basis, the permit will so indicate and the permittee shall be charged for all salary, overhead, and expenses incurred by the Department for inspection.

(e) *Refunds.* The Department will refund the general permit inspection fees on unused permits. In order to be eligible to receive such a refund, the permittee shall deliver the request with the permit-

tee's copy of the permit to the issuing district permit office on or before the permit expiration date.

(1) A refund processing fee of \$10 shall be deducted from the general permit inspection fees.

(2) The permit issuance fee shall not be refundable on unused permits.

(f) *Miscellaneous fees.* The applicant shall pay notary and recording costs including the cost of recording the permit in the County Office of the Recorder of Deeds when required, and the cost of all drainage releases. Permits shall be recorded whenever deemed necessary by the Department, including when:

(1) a permit requires drainage facilities to be installed and maintained;

(2) a permit authorizes one or more high volume driveways to be constructed; or

(3) an access covenant (Form CC-14) is executed with the permit as specified in paragraph (16) of § 441.6 of this title (relating to general conditions). ]

§ 441.5. Issuance of permits.

(a) *General rule.* Upon application duly made, in accordance with this chapter, a permit will be issued by the appropriate district office, subject to this chapter and the conditions contained on the permit and its attachments and supplements. The permit will be the authority of the applicant to proceed with the work [ and will also serve as a receipt for the fees accompanying the application ].

\* \* \* \* \*

(e) *Waiver of design requirements.* Waiver of design requirements shall be as follows:

(1) If any design requirement set forth in this chapter cannot be met, the [ director ] Deputy Secretary or a designee may waive the requirement if the following conditions are satisfied:

\* \* \* \* \*

(h) *Work completion notification.* When all permitted work has been completed, the [ self-addressed post card (Form M-945G) which accompanies the permit shall be mailed ] permittee shall provide written notification to the district office.

[ (i) *Permanent permit microfilm record.* The permit, together with plans, relevant correspondence, and any supplements issued, will be microfilmed, and the microfilm record will be retained in the central permit office. ]

§ 441.6. General conditions.

The following conditions shall apply to permits issued under the provisions of this chapter:

(1) *Scope of permit.* The permit shall be binding upon the permittee, its agents, contractors, successors, and assigns.

\* \* \* \* \*

(vii) Disputes between the permittee and the Department shall be governed by the appropriate provisions in [ Form 408 ] Publication 408 (Specifications).

\* \* \* \* \*

(3) *Work to conform to Department standards.* The work shall be done at such time and in such a manner as shall be consistent with the safety of the public and shall conform to all requirements and standards of the Department including, but not limited to, [ Form ] Publication 408. If at any time it shall be found by the Department that the work is not being done or has not been properly performed, the permittee upon being notified in writing by the Department shall immediately take the necessary steps, at its own expense, to place the work in condition to conform to such requirements or standards. In case any dispute arises between the permittee and the Department's inspector, the Department's inspector shall have the authority to suspend work until the question at issue can be referred to and be decided by the district office.

\* \* \* \* \*

(9) *Traffic protection and maintenance.* Maintenance and protection of traffic shall be carried out in accordance with the requirements of the Department, as set forth in [ Publication 43 and Publication 90 ] Chapter 212 (relating to official traffic-control devices) and Publication 213 (Temporary Traffic Control Guidelines).

\* \* \* \* \*

(ii) Traffic control devices shall be provided in accordance with [ Publication 43 and Publication 90 ] Chapter 212 and Publication 213. Any open trench or hole shall be adequately barricaded to prevent possible injury to pedestrians and the motoring public. All traffic control devices shall be of an approved type. Signs shall conform to the requirements of [ Publication 68 ] Publication 111M (Traffic Control Pavement Markings & Signing Standards) and Publication 236M (Handbook of Approved Signs).

(iii) Designated [ employes ] employees shall be assigned by the permittee to direct one lane traffic. Flagmen shall be provided as specified in the permit and in accordance with [ Publication 43 and Publication 90 ] Chapter 212 and Publication 213.

\* \* \* \* \*

(16) *Future additional driveways.* Future additional driveways shall consist of the following:

(i) If the Department anticipates that a property may be subdivided and that such subdivision will result in an unacceptable number or arrangement of driveways or both, the Department may require the property owner to enter into an access covenant [ (Form CC-14) ] in a form acceptable to the Department prior to issuance of a permit.

\* \* \* \* \*

(17) *Use of highway prohibited.* Prohibited use of the highway shall be as follows:

\* \* \* \* \*

(ii) Improvements on private property adjacent to the right-of-way shall be so located that parking, stopping, and maneuvering of vehicles on the right-of-way will not be necessary in order for vehicles or patrons to be served. New liquid fuel pump islands installed in service stations adjacent to the highway shall be located at least 12 feet outside the right-of-way, in order for a driveway permit to be issued. [ See Figure 11 and Figure 12. ]

§ 441.7. General driveway requirements.

\* \* \* \* \*

(f) *Approaches to driveways.* Driveway approaches shall conform to the following standards:

\* \* \* \* \*

(3) Where the highway is curbed, driveway approaches shall be installed 1 1/2 inches above the adjacent highway or gutter grade to maintain proper drainage. [ See Figure 5. ]

§ 441.8. Driveway design requirements.

(a) *General.* General requirements shall be as follows:

(1) The ability of a driveway to safely and efficiently function as an integral component of a highway system requires that its design and construction be based on the amount and type of traffic that it is expected to serve and the type and character of roadway which it accesses. This chapter separates driveways into four classifications, based on the amount of traffic they are expected to serve. A description of each classification and typical examples of land uses normally associated with each follows:

(i) Minimum use driveway [ , see Figure 7 ]. A driveway normally used by not more than 25 vehicles per day, such as:

\* \* \* \* \*

(ii) Low volume driveway [ , see Figure 8 ]. A driveway normally used by more than 25 vehicles per day but [ less ] not more than 750 vehicles per day, such as:

\* \* \* \* \*

(iii) Medium volume driveway [ , see Figures 9, 11, and 12 ]. A driveway normally used by more than 750 vehicles but [ less ] not more than 1500 vehicles per day, which does not normally require traffic signalization, such as:

\* \* \* \* \*

(iv) High volume driveway [ , see Figure 10 ]. A driveway normally used by more than 1500 vehicles per day, which often requires traffic signalization, such as:

\* \* \* \* \*

(2) The design features described in this section and illustrated in [ the attendant figures ] Publication 282 (Highway Occupancy Permit Manual) are to be used by the applicant in designing the driveway plans which accompany the application. Dimensions shall be selected from the range of values shown on the appropriate figure, unless site conditions warrant a deviation. The Department may require design details which are more stringent than those specified in this chapter to insure the safe and efficient operation of any proposed driveway.

[ (3) Figures 7, 8, and 9 show two sets of design values. The applicant shall design his driveway using the values appropriate for the posted speed of the roadway being accessed. ]

(b) *Angle of access driveway approach.* Angle of access driveway approach shall include the following:

(1) Access driveway approaches used for two-way operation shall be positioned at right angles, that is, 90 degrees, to the highway or as near thereto as site conditions permit, except as authorized in [ Figure 11 ] Publication 282.

(2) When two access driveways are constructed on the same property frontage and used for one-way operation, each of these driveways may be placed at an angle less than a right angle, but not less than 45 degrees to the highway, except that along divided highways where no openings are allowed in the median the minimum angle of an exit driveway may be 30 degrees, as shown in [ Figure 12 ] Publication 282.

\* \* \* \* \*

(e) *Multiple driveways.* Multiple driveways serving the same property must be separated by a minimum distance of 15 feet measured along the right-of-way line and 20 feet measured along the shoulder, ditch line, or curb. When the distance between multiple driveways is 50 feet or less measured along the shoulder or ditch line, the Department may require the area between [ shall ] to be clearly defined by permanent curbing. This curb shall be placed in line with existing curb or two feet back of the shoulder or ditch line on uncurbed highways. It shall be extended around the driveway radii to the right-of-way line.

\* \* \* \* \*

(h) *Sight distance.* Conditions for sight distance shall be as follows:

[ (1) Access driveways shall be located at a point within the property frontage limits which provides at least the minimum sight distance listed in the appropriate following table:

Table 1—Safe Sight Distance for passenger cars and single unit trucks exiting from driveways onto two-lane roads.

Posted Speed (mph)	Safe Sight Distance—Left <sup>1</sup> (feet)	Safe Sight Distance—Right <sup>1</sup> (feet)
25	250	195
35	440	350
45	635	570
55	845	875

<sup>1</sup> Measured from a vehicle ten feet back of the pavement edge.

Table 2—Safe Sight Distance for buses and combinations exiting from driveways onto two-lane roads.

Posted Speed (mph)	Safe Sight Distance—Left <sup>1</sup> (feet)	Safe Sight Distance—Right <sup>1</sup> (feet)
25	400	300
35	675	625
45	1225	1225
55	2050	2050

<sup>1</sup> Measured from a vehicle ten feet back of the pavement edge.

Table 3—Safe Sight Distance for passenger cars and single unit trucks exiting from driveways onto four and six-lane roads.

Posted Speed (mph)	Safe Sight Distance—Left <sup>1</sup> (feet)	Safe Sight Distance—Right <sup>2</sup> (feet)
25	175	195
35	300	350
45	500	570
55	785	875

<sup>1</sup> Measured from a vehicle ten feet back of the pavement edge to a vehicle approaching in the outside lane.

<sup>2</sup> Measured from a vehicle ten feet back of the pavement edge to a vehicle approaching in the median lane.

**Table 4—Safe Sight Distance for buses and combinations exiting from driveways onto four and six-lane roads.**

Posted Speed (mph)	Safe Sight Distance—Left <sup>1</sup> (feet)	Safe Sight Distance—Right <sup>2</sup> (feet)
25	300	300
35	625	625
45	1225	1225
55	2050	2050

<sup>1</sup> Measured from a vehicle ten feet back of the pavement edge to a vehicle approaching in the outside lane.

<sup>2</sup> Measured from a vehicle ten feet back of the pavement edge to a vehicle approaching in the median lane.

**Table 5—Safe Sight Distance for passenger cars and single unit trucks entering driveways by left turns.**

Posted Speed (mph)	Safe Sight Distance in Feet <sup>1</sup>		
	2-Lane	4-Lane	6-Lane
25	190	205	220
35	300	320	345
45	445	470	500
55	610	645	680

<sup>1</sup> Measured from the point where a left-turning vehicle stops to a vehicle in the outside lane.

**Table 6—Safe Sight Distance for buses and combinations entering driveways by left turns.**

Posted Speed (mph)	Safe Sight Distance in Feet <sup>1</sup>		
	2-Lane	4-Lane	6-Lane
25	330	360	390
35	485	530	575
45	690	750	810
55	905	990	1075

<sup>1</sup> Measured from the point where a left-turning vehicle stops for a vehicle in the outside lane.

(2) In using Tables 1 through 6 the following additional requirements shall apply:

(i) Tables 2, 4, and 6 shall be used in lieu of Tables 1, 3, and 5 only when combination traffic exceeds 5.0% of the total traffic using the proposed driveway.

(ii) Posted speeds shall be used unless operating speeds vary from the posted speed by more than ten miles per hour, in which case the Department may require that operating speeds be used.

(iii) The sight distances in Tables 1 through 4 apply only when highway grades are zero to 3.0%, either up or down.

(A) When the highway grade in the section to be used for acceleration, after leaving the driveway, ascends at 3.0—5.0%, the sight distance in the direction of approaching ascending traffic may be increased by a factor of 1.4.

(B) When the highway grade ascends at greater than 5.0%, sight distance may be increased by a factor of 1.7.

(C) When the highway grade in the section to be used for acceleration after leaving the driveway descends at 3.0—5.0%, sight distance in the direction of approaching descending highway traffic may be reduced by a factor of 0.6.

(D) When the road descends at greater than 5.0%, sight distance may be reduced by a factor of 0.5.

(iv) The sight distance values in Tables 1 through 6 are desirable for safe operation of the driveway. Sight distance values less than desirable will be accepted only if it is impossible to achieve the desirable value by locating the driveway at any point within the property frontage boundaries. The minimum acceptable sight distance values shall be computed from the following formula:

$$SSSD = \frac{1.47 Vt + V^2}{30 (f+g)}$$

SSSD = Minimum safe stopping sight distance (feet).

V = Velocity of vehicle (miles per hour).

t = Perception time of motorist (average = 2.5 seconds).

f = Wet friction of pavement (average = 0.30).

g = Percent grade of roadway divided by 100.]

(1) *Intersection sight distance.* An access driveway shall be located at a point within the property frontage limits which provides at least the minimum intersection sight distance as set forth in Publication 13M (Highway Design Manual).

(2) *Stopping sight distance.* Stopping sight distance, as set forth in Publication 13M, will be accepted only if it is impractical or infeasible to achieve intersection sight distance by locating the driveway at any point within the property frontage boundaries.

(3) *Insufficient sight distance.* If sight distance requirements as specified in this chapter cannot be met, the Department may:

\* \* \* \* \*

(i) *Grade of access driveway.* Grade of access driveway shall be constructed in the following manner:

\* \* \* \* \*

(2) Where a drainage ditch or swale exists, the permittee shall maintain an adequate swale across the driveway or install an adequate pipe under the drive-

way in accordance with [ **Form 408** ] **Publication 13M**. Drainage pipe installed under driveways shall be at least 15 inches in diameter.

(3) The side slopes for driveway embankments within the right-of-way shall not be steeper than ten to one. [ **See Figure 6.** ]

(4) Grade requirements in uncurbed shoulders within the right-of-way shall conform to [ **Figure 1** ] **standards identified in Publication 282**.

*(Editor's Note: As part of this proposed rulemaking, the Department is proposing to delete Figure 1, which appears in 67 Pa. Code page 441-25, serial page (216133).)*

(5) Grade requirements where curbs and sidewalks are present **must conform to Department standards in Publication 13M, Publication 72M (Roadway Construction Standards) and Publication 282**.

[ (i) **The driveway approaches shall be installed 1 1/2 inches above the adjacent roadway or the gutter grade to maintain proper drainage. See Figure 5.**

(ii) **The difference between the cross slope of the roadway and the upward grade of the driveway approach shall not exceed 8.0%.**

(iii) **When a planted area exists in front of the sidewalk, one of the following three cases shall apply:**

(A) **When the grass strip between the curb and the sidewalk is wide enough to maintain an 8.0% maximum driveway approach grade, construct the driveway as shown in Figure 2. ]**

*(Editor's Note: As part of this proposed rulemaking, the Department is proposing to delete Figure 2, which appears in 67 Pa. Code page 441-26, serial page (216134).)*

[ (B) **If the driveway grade would exceed 8.0%, depress the outer edge of the sidewalk and maintain a maximum sidewalk cross slope of 6.0%. This will enable the driveway slope to stay within the 8.0% slope limit. See Figure 3. ]**

*(Editor's Note: As part of this proposed rulemaking, the Department is proposing to delete Figure 3, which appears in 67 Pa. Code page 441-26, serial page (216134).)*

[ (C) **If the sidewalk cross slope would exceed 6.0%, as indicated in clause (B) of this subparagraph, depress the entire sidewalk. The amount of depression shall not exceed 1 1/2 inches at the inner edge of the sidewalk. The longitudinal slope of the sidewalk shall not exceed two inches per foot. See Figure 3.**

(iv) **When the sidewalk is directly against the back of the curb and the sidewalk is at least five feet wide, the curb shall be sloped as shown in Figure 5 of this subsection. This will eliminate the need for depressing the back edge of the sidewalk. For sidewalks narrower than five feet, the curb will be sloped and the back edge of the sidewalk will be depressed (maximum 1 1/2 inches) to maintain an 8.0% maximum grade on the driveway. The longitudinal grade of the sidewalk shall not exceed two inches per foot. ]**

*(Editor's Note: As part of this proposed rulemaking, the Department is proposing to delete Figures 4—6, which appear in 67 Pa. Code pages 441-27 and 441-28, serial pages (216135) and (216136).)*

(j) *Auxiliary lanes.* Auxiliary lanes shall consist of the following:

\* \* \* \* \*

(4) *Cost.* When required, auxiliary lanes shall be constructed, at no cost to the Department, in accordance with the [ **Roadway Construction Standards and Form 408** ] **Department design standards**.

\* \* \* \* \*

(k) *Access driveway pavement.* Access driveways shall be appropriately surfaced with a stabilized material between the traveled way and the right-of-way line unless a higher type material is specified by the permit. Low, medium, and high volume driveways which provide access to paved highways shall be paved within the right-of-way. Materials used in the construction of driveways shall meet the requirements of [ **Form 408** ] **Publication 408 (Specifications)**. The driveway pavement shall be at least four inches thick within the right-of-way.

\* \* \* \* \*

(m) *Median openings.* Median openings shall consist of the following:

\* \* \* \* \*

(3) Requests for removal of a median divisor will not be granted without the approval of the [ **director** ] **Deputy Secretary or a designee**.

\* \* \* \* \*

(o) *Traffic control devices.* Requirements for traffic control devices shall be as follows:

\* \* \* \* \*

(2) *Electrically powered devices.* Electrically powered devices shall consist of the following:

(i) When power operated devices, including traffic signals, are required for proper traffic control, a traffic signal [ **permit (Form TE 964)** ] **approval as defined in 75 Pa.C.S. §§ 6109 and 6122 (relating to specific powers of department and local authorities; and authority to erect traffic-control devices) and in accordance with Publication 46 (Traffic Engineering Manual)** shall be obtained in addition to the occupancy permit. The permit to own and operate a traffic control device shall be requested by and issued to only the appropriate municipality.

\* \* \* \* \*

§ 441.9. [ **Driveway layout illustrations** ] (Reserved).

[ **Figures 7 through 12 illustrate and supplement the minimum design requirements described in this chapter. Although site conditions may not allow strict adherence to the dimensions shown in these illustrations, every effort shall be made to design and construct the safest and most efficient access onto the State highway. ]**

*(Editor's Note: As part of this proposed rulemaking, the Department is proposing to delete Figures 7—12, which appear in 67 Pa. Code pages 441-31—441-36, serial pages (216139)—(216144).)*



§ 441.10. Penalties and enforcement.

\* \* \* \* \*

(b) *Additional grounds for revocation.* Additional grounds for revocation shall be as follows:

\* \* \* \* \*

(2) The [ **director** ] **Deputy Secretary or a designee** may revoke a permit for nonpayment of a fee specified in § 441.4 (relating to permit fees) including default of a check submitted for the payment.

\* \* \* \* \*

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