

WELCOME

Industry Webex: Letters of Local Determination

May 2012

www.papostedroads.pa.gov

INTRODUCTIONS

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General Business

- **Training Purpose:**
 - Acquaint the hauling industry with policy effective Saturday, May 12, 2012 regarding Letters of Local Determination (LoLD)
 - Present qualifications and limitations associated with LoLDs
 - Present the application and approval process LoLDs

General Business

- **Presentation Outline:**

- Review Key Terms
- Provide historical background
- Summarize Department Policy
- Provide guidance on how to apply for and update Letters of Local Determination
- Provide contact information for your area
- Questions & Answers

- *This presentation can be found online at www.papostedroads.pa.gov*

Key Elements/Terms to Know

- **Unconventional Oil & Gas (UOG) development company**
 - Includes horizontal drilling for Marcellus & Utica Shale
 - Includes pipeline construction (only for gathering)
- **Self Certification as Local Traffic**
- **At-Risk Industry Sectors**
 - NAICS Codes
 - <http://www.census.gov/eos/www/naics/faqs/faqs.html>
- **De minimis Operations**
- **Letter of Local Determination (LoLD)**
- **LoLD Application**

Background

- **From 2008 – 2012, over 4,600 miles posted**
 - 68% increase
 - Most new postings due to unconventional oil and gas development.
 - Maze of posted roads confuses PSP and local traffic.
 - Major burden to businesses.



Background

Local Traffic (Chapter 189) & Self Certification

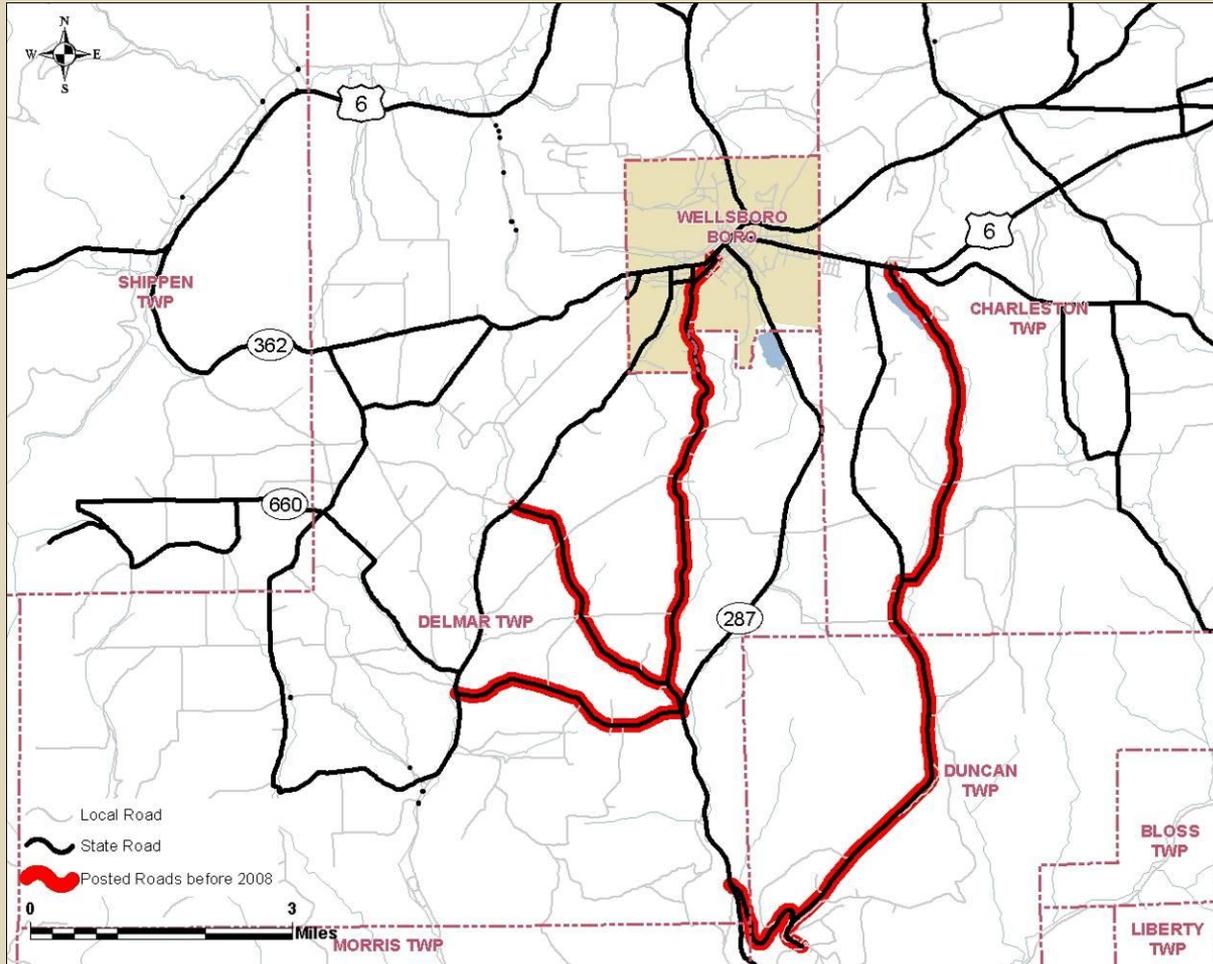
- **Local traffic - § 189.3 (relating to local traffic):**
 - Emergency vehicles.
 - School buses.
 - Vehicles and combinations of governmental agencies and utilities or their contractors engaged in construction or maintenance on a posted highway or in a location which can be reached only via a posted highway
 - Vehicles and combinations going to or coming from a residence, commercial establishment, or farm located on a posted highway or *which can be reached via a posted highway.*

Background

Local Traffic (Chapter 189)

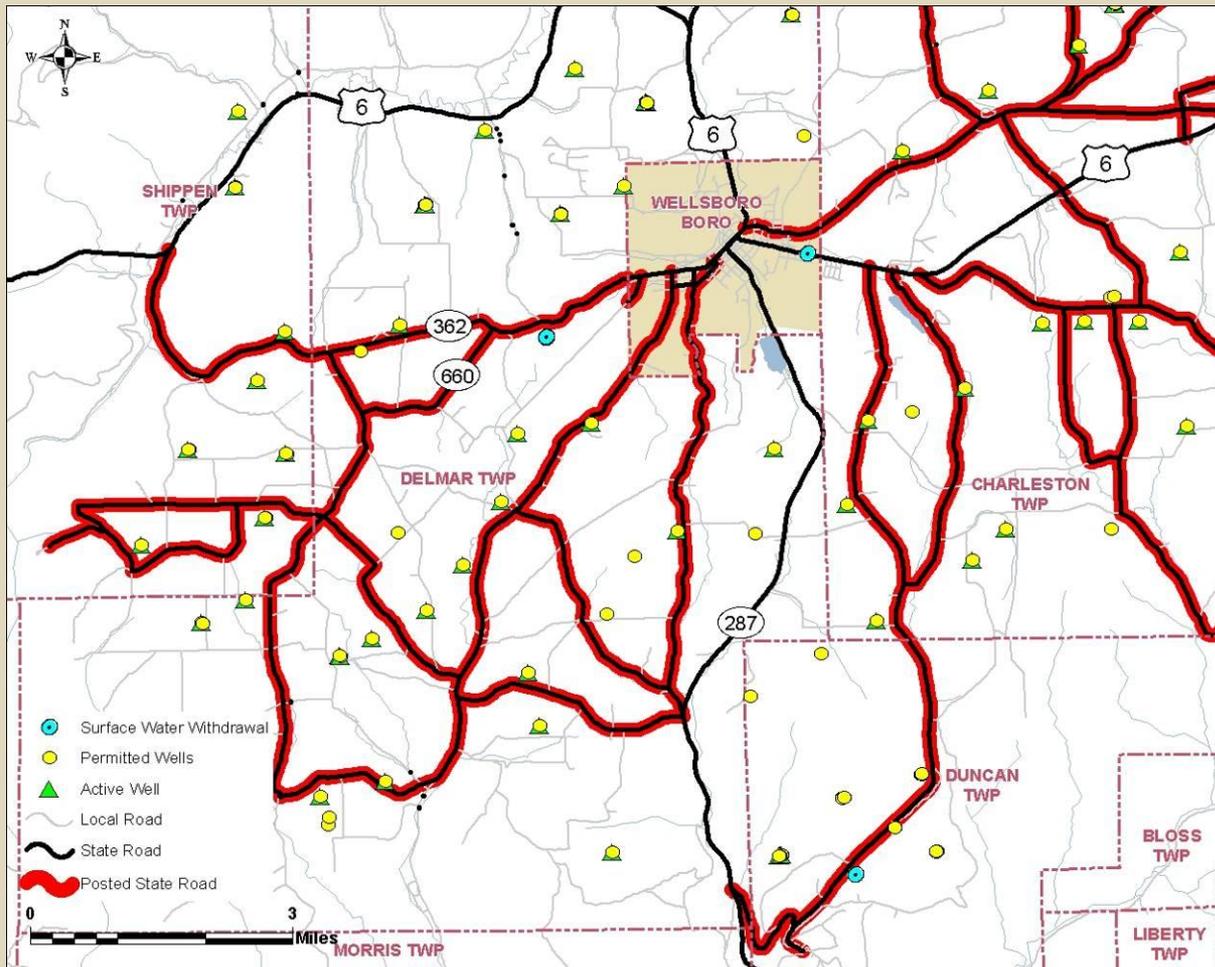
- **Proof of local traffic status**
 - A bill of lading, shipping order or similar document (includes destination), or
 - Certification by the permittee or an official of a permittee company on the company letterhead describing the local traffic nature of the activity which the vehicle is engaged in.

Background



Tioga County – Pre 2008

Background



Tioga County - 2012

Background

The Problem

- Existing haulers must bond roads with unconventional oil and gas (UOG) companies
 - Road damages that took years now take weeks
 - Routine maintenance costs are now much more expensive
 - Excessive maintenance costs > pre-unconventional gas development
 - Additional cost risk
 - affect on business models



Attempted Solution (Pre-Act 13)

Notice of Determination of Local Traffic Status

- From:** PennDOT District Office
- What:** Notice to be carried in the vehicle
- When:** Conservative use prior to 2010; More prevalent use in last 3 years; Majority issued in few Districts
- To:** Primarily haulers who were not likely to cause damage and could (or could not) self certify; some uncertainty as to how to self certify
- Purpose:** Provide an objective opinion of “Local Traffic” status
- Criteria:** Requested number of Loads per day and week
- Problem:** Not defined in regulation; only regulation can define local traffic

Act 13 of 2012 - Language

Section 7:

“Within 90 days of the effective date of this section, the Department of Transportation shall issue a statement of policy, effective upon publication in the Pennsylvania Bulletin, adopting an appropriate methodology to provide letters of local determination that identify particular vehicles, routes or uses as local in nature. The Department of Transportation may determine that hauling related to unconventional oil and gas development is excluded from local traffic status based on its disproportionate and qualitatively different impact upon highways and bridges. The methodology shall allow for exemptions from 67 Pa. Code Ch. 189 (relating to hauling in excess of posted weight limit) related to at-risk industry sectors in this Commonwealth that have experienced a 20% or more decline in Statewide employment since 2002 or that demonstrate other evidence of economic decline as determined by the department in consultation with the Department of Labor and Industry. The exemptions and related requirements shall remain in existence until December 31, 2015.”

Act 13 – Letter of Local Determination

What is a “LoLD”?

Determines hauling activity is “Local” for two categories

- 1. Required for At-Risk Industry Sectors when hauling on roads where unconventional oil and gas development has existing permit**
 - List Provided by Labor and Industry as required by Act 13 of 2012
- 2. De minimis haulers (not required in Act 13)**
 - Low risk haulers who are unlikely to cause damage

NOTE: LoLDs apply to legal loads only (NOT available for APRAS Loads)

LoLD Does Not Require:

- Excess Maintenance Agreement
 - Security
 - Proof of Insurance
 - Administrative (Permit) Fee

Act 13 – Letter of Local Determination

A Letter of Local Determination (LoLD) is not:

- **Free Pass (only on authorized posted SRs)**
- **Does not make recipients “Local Traffic” by the definition of 67 Pa. Code §189**

“At-risk” companies are exempt from 67 Pa. Code §189 when hauling on roads where unconventional oil and gas development has existing permit.

At-Risk

At-risk industry hauling on unconventional oil and gas bonded roadway:

- ***At-Risk*** defined as – “*industry sectors in this Commonwealth that have experienced a 20% or more decline in Statewide employment since 2002 or that demonstrate other evidence of economic decline as determined by the Department in consultation with the Department of Labor and Industry.*”
- **At-Risk industries are identified by North American Industrial Classification System (NAICS) Code.**
- **Website to identify all work classifications under NAICS Codes**
<http://www.census.gov/eos/www/naics/>

At-Risk

Identified At-Risk Industry Sectors

Industry sectors in Pennsylvania which have experienced a 20% or more decline in statewide employment since 2002. (NAICS = North American Industrial Classification System)

Table1: Industries with over 20% Employment Decline (2002 to 2011)

Industry Description	Percent_loss
Miscellaneous Store Retailers	-20%
Construction of Buildings	-21%
Paper Manufacturing	-21%
Utilities	-22%
Plastics and Rubber Products Manufacturing	-22%
Primary Metal Manufacturing	-23%
Miscellaneous Manufacturing	-23%
Forestry and Logging	-24%
Machinery Manufacturing	-25%
Rental and Leasing Services	-26%
Postal Service	-27%
Monetary Authorities-Central Bank	-27%
Chemical Manufacturing	-31%
Printing and Related Support Activities	-34%
Broadcasting (except Internet)	-34%
Telecommunications	-34%
Wood Product Manufacturing	-35%
Nonmetallic Mineral Product Manufacturing	-39%
Computer and Electronic Product Manufacturing	-41%
Beverage and Tobacco Product Manufacturing	-42%
Furniture and Related Product Manufacturing	-43%
Air Transportation	-47%
Data Processing, Hosting and Related Services	-54%
Textile Product Mills	-55%
Private Households	-55%
Textile Mills	-61%
Apparel Manufacturing	-70%
Fishing, Hunting and Trapping	-71%
Leather and Allied Product Manufacturing	-71%

Future Policy

- **Short Term – Policy Amendment**
 - Methodology will be added to Department Publication 23, Chapter 15.
- **Long Term – Regulatory Amendment**
 - Act 13 of 2012 language for letters of local determination would **expire** on **12/31/2015**.
 - Consideration will be given to amending the regulation (Chapter 190) for a long term solution.

POLICY



Statement of Policy

Annex A

TITLE 67 TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

SUBPART A. VEHICLE CODE PROVISIONS

ARTICLE VII. VEHICLE CHARACTERISTICS

CHAPTER 190: LETTER OF LOCAL DETERMINATION

Statement of Policy

§ 190.1 Purpose.

(a) This Statement of Policy is adopted pursuant to the provisions of Section 7 of the Act of February 14, 2012, P.L. 87, No. 13. The purpose of this Statement of Policy is to provide guidance for the implementation of a program to provide 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 (relating to hauling in excess of posted weight limit).

(b) This policy only applies to the regulations of 67 Pa. Code, Chapter 189 (relating to hauling in excess of posted weight limit) and does not apply to roads and bridges posted pursuant to 67 Pa. Code, Chapter 191 (relating to authorization to use bridges posted due to condition of bridge) and 67 Pa. Code, Chapter 193 (relating to authorization to use highways posted due to traffic conditions).

(c) The policies and procedures in this guidance are intended to supplement existing requirements. Nothing in the policy or procedures shall affect regulatory requirements. The policies and procedures herein are not an adjudication or a regulation. This Statement of Policy establishes the framework within which the Department will exercise its administrative

<http://pabulletin.com/secure/data/vol42/42-19/831.html>

Statement of Policy

- **§ 190.1 Purpose**

- Provides guidance for the implementation of a program to provide 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 (relating to hauling in excess of posted weight limit).

- **§ 190.2 Definitions**

Statement of Policy

- **§ 190.3 Local Traffic and Letters of Local Det.**
 - (a) Self Certification as Local Traffic
 - (b)(1) At-Risk Industry Sector Criteria
 - (b)(2) De minimis Operations Criteria
 - Based on structural capacity of route
 - (b)(3) Unconventional Oil & Gas (UOG) Industry Criteria
 - UOG development Does Not Qualify
 - UOG production may qualify as de minimis

Statement of Policy

- **§ 190.3 Local Traffic and Letters of Local Det.**
 - (c) Application for Letter of Local Determination
 - (d)(1) Review of Application for LoLD
 - (d)(2) Review of Application for LoLD
 - (d)(3) Review of Application for LoLD
 - (e) Issuance of Letter of Local Determination
 - less than 12 months duration

Statement of Policy

- **§ 190.4 – Use of LoLD**
 - Carry → LoLD, Bill of Lading, & Proof of authorized use
- **§ 190.5 – Revocation of LoLD**
 - Damaging the posted highway
 - UOG permit is closed out.

Statement of Policy

Letter of Local Determination – At-Risk

From: PennDOT District Office
What: Letter carried in the vehicle
When: Available Spring of 2012
To: At-risk haulers
Purpose: Determination of “Local” status

Criteria:

- Hauling related to at-risk industry sector
- Route bonded by unconventional oil and gas

Not Considered:

- Structural capacity of the route
- Number of trips/risk of damages

Effect:

- Risk/cost of damages transferred to unconventional oil and gas

Statement of Policy

Letter of Local Determination – De Minimis

From: PennDOT District Office
What: Letter carried in the vehicle
When: Available in Spring of 2012
To: De minimis haulers
Purpose: Determination of “Local” status

Criteria:

- Available structural capacity of the route
- Pavement condition evaluation (Department discretion)
- Low Risk (low volume and duration of requested hauling)

Not Considered:

- Industry Sector

Effect:

- Availability and method of issuance not consistent with past notices

GUIDANCE



Application

 **APPLICATION FOR LETTER OF LOCAL DETERMINATION**
M-4900-APPL (4-12)

USER: _____ **NAICS CODE:** _____
The U.S. Census Bureau NAICS Code can be found at: <http://www.census.gov/eos/www/naics/naics.html>

Address: _____
City, State, Zip Code: _____
Contact Person Name: _____
Phone Number (Office): _____ **(Mobile):** _____
E-Mail Address: _____

A. Freight or Cargo most frequently hauling: 1. _____ 2. _____
B. Industry most frequently hauling for: 1. _____ 2. _____
C. Describe your Primary Business Activity: _____
D. Heaviest Axle - Vehicle Type: _____ **Number of Axles:** _____
E. Registered Gross Vehicle Weight (GVW): _____ **ESAL Truck Factor:** _____
F. Number of vehicles to carry the requested LoLD: _____
G. Have all existing weight-restricted permits been closed-out in accordance with the Excess Maintenance Agreement for the requested routes (Yes/No)? _____

The requested vehicle generating the largest Equivalent Single Axle Load (ESAL) will be used to calculate all authorized loads for all requested routes. Districts may issue between 0 and 10 loads per day per letter based on the structural capacity of the route, the remaining pavement life and the past requests for LoLD.

USER AUTHORIZATION	
_____ (Print Name)	
_____ User Signature	_____ Date

POSTING AUTHORITY AUTHORIZATION	
Reviewed/Approved By: _____	Date: _____
_____ (Print Name)	LoLD # _____
_____ POSTING AUTHORITY SIGNATURE	_____ DATE

Comments:

4-12

- Application for LoLD is found at:
 - www.papostedroads.pa.gov

Application



APPLICATION FOR LETTER OF LOCAL DETERMINATION

M-4902-APPL (4-12)

USER: _____ **NAICS CODE:** _____
The U.S. Census Bureau NAICS Code can be found at: <http://www.census.gov/naics/>

Address: _____
City, State, Zip Code: _____
Contact Person Name: _____
Phone Number (Office): _____ **(Mobile):** _____
E-Mail Address: _____

A. Freight or Cargo most frequently hauling: 1. _____ 2. _____
B. Industry most frequently hauling for: 1. _____ 2. _____
C. Describe your Primary Business Activity: _____
D. Heaviest Axle - Vehicle Type: _____ **Number of Axles:** _____
E. Registered Gross Vehicle Weight (GVW): _____ **ESAL Truck Factor:** _____
F. Number of vehicles to carry the requested LoLD: _____
G. Have all existing weight-restricted permits been closed-out in accordance with the Excess Maintenance Agreement for the requested routes (Yes/No)? _____

The requested vehicle generating the largest Equivalent Single Axle Load (ESAL) will be used to calculate all authorized loads for all requested routes. Districts may issue between 0 and 10 loads per day per letter based on the structural capacity of the route, the remaining pavement life and the past requests for LoLD.

USER AUTHORIZATION

_____ (Print Name)

_____ User Signature _____ Date

POSTING AUTHORITY AUTHORIZATION

Reviewed/Approved By: _____ Date: _____

_____ (Print Name) LoLD # _____

POSTING AUTHORITY SIGNATURE _____ DATE

Comments:

4-12



APPLICATION FOR LETTER OF LOCAL DETERMINATION

M-4902-APPL (4-12)

USER: _____ **County:** _____
Move Beginning Date: _____ **Move Ending Date:** _____
Map of State Routes can be found at: <http://www.dot.state.pa.us/Internet/Bureaus/pd/PlanFiles.nsf/info8PRCartoCountyType10>
 State Routes, Segments and Offsets can be found on the PennDOT VideoLog at: <http://www.dot7.state.pa.us/VideoLog/Content.aspx>

This Section To Be Completed by User/Applicant								Posting Authority Use Only		
State Route #	SR	Begin Location		End Location		Requested Use: Daily, Weekly, or Monthly		*Closed-Out YES/NO	Bonded by UOG YES/NO	Authorized Loads DAILY
		SEG	OFF	SEG	OFF	# of Loads	D, W, M			
1										
2										
3										
4										
5										
6										
7										
8										
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*The Applicant must close-out their existing weight-posted permit on route(s) above prior to authorization for a LoLD.

Application

- Official receipt of application is based on **completeness**
- **Critical Elements**
 - USER Name and Address
 - Primary Business Activity or Industry Sector Code
 - Requested Routes by State Route Number
 - Requested number of loads by day, week or month



Application

- If any critical items are not **satisfactorily** completed, the application will be returned as incomplete and the applicant will have **15 calendar days to respond**.

Application Review

- Determination of At-Risk or De minimis
 1. Consistency between **Industry Sector Code & Primary Business Activity**
 2. Verification with the **At-Risk Sector List**
 - If Yes, then evaluation as an At-Risk route
 - If No, then evaluation as a De minimis route



Application

- **Review of Application**

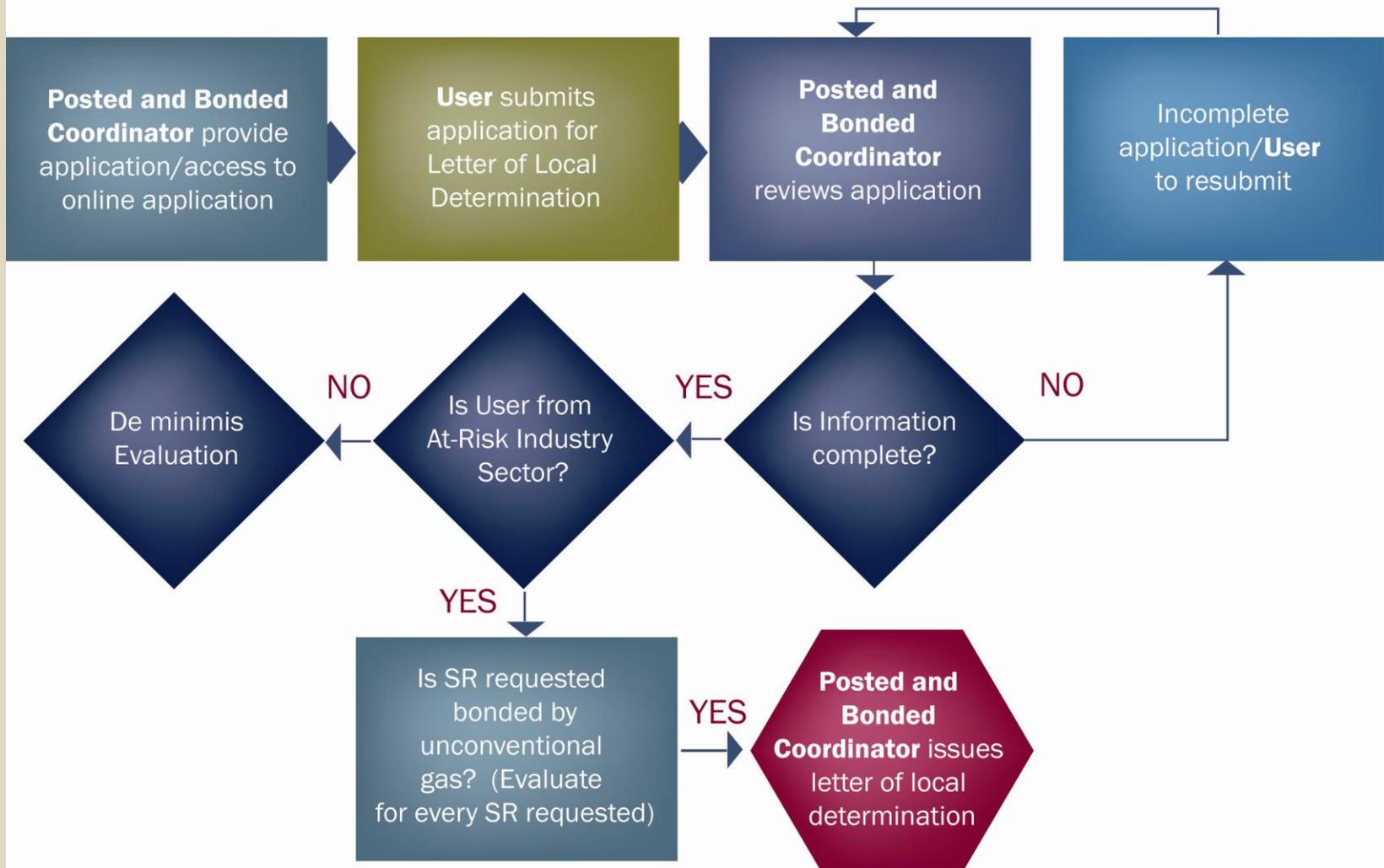
The Department may consider various factors:

- Protecting integrity of Commonwealth's highways
- Existing pavement strength (condition, thickness, age)
- Existing average daily truck traffic
- Number and type of expected over-posted-weight vehicles
- Impact of the freeze-thaw cycle between Feb. 15 and April 15
- Historical roadway performance

The Department will not consider posted municipal routes

Application Review – At-Risk

AT RISK APPLICATION REVIEW PROCESS



Application Review – At-Risk

1. Determination of which routes are currently bonded by an Unconventional Oil and Gas (UOG) development company. (at-risk LoLD is only available on UOG bonded routes)
2. Existing permits **MUST** be closed out on the qualified routes per the EMA
3. Be sure to specify the number of loads on the application

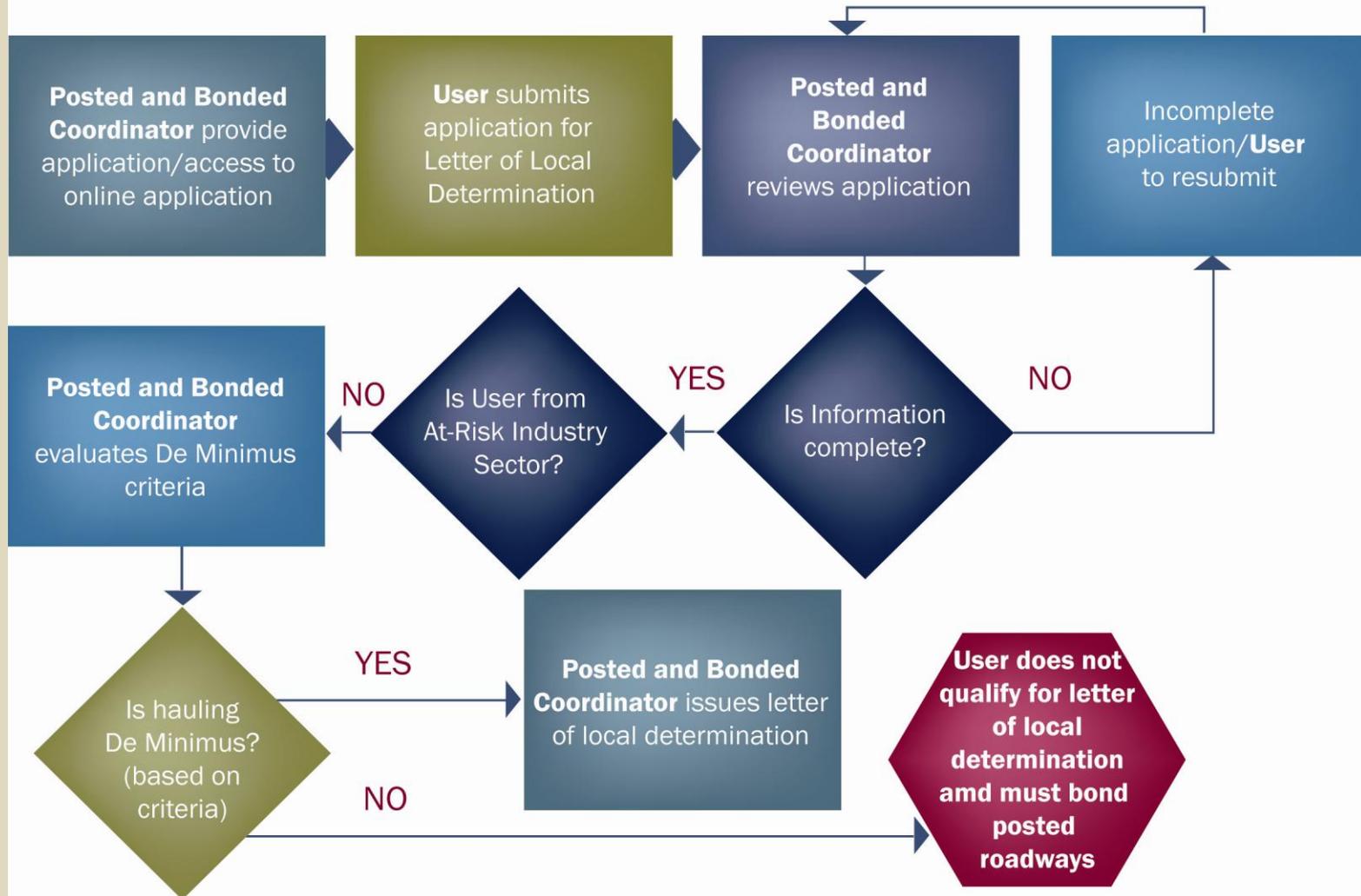


Application Review – At-Risk

4. Look for the at-risk watermark in the top border of your issued LoLD.
5. Duration of the LoLD shall not exceed 12 months.
6. If some routes are not bonded by a UOG company, then requested hauling routes must comply with De minimis criteria and a second LoLD must be issued.

Application Review – De Minimis

De MINIMUS APPLICATION REVIEW PROCESS



Application Review – De Minimis

1. De Minimis = Not likely to cause damage
2. Are suitable alternative routes available?
3. Structural sufficiency of requested route(s) will be considered.
4. Requested number of loads per day may not exceed 10 on any requested route(s).

Application Review – De Minimis

5. Authorized loads will be based on the following considerations:

- Available # of loads remaining (annual ESAL life)
- Letters will be managed to best accommodate all anticipated requests
- Pavement consistency throughout the requested route
- Pavement condition



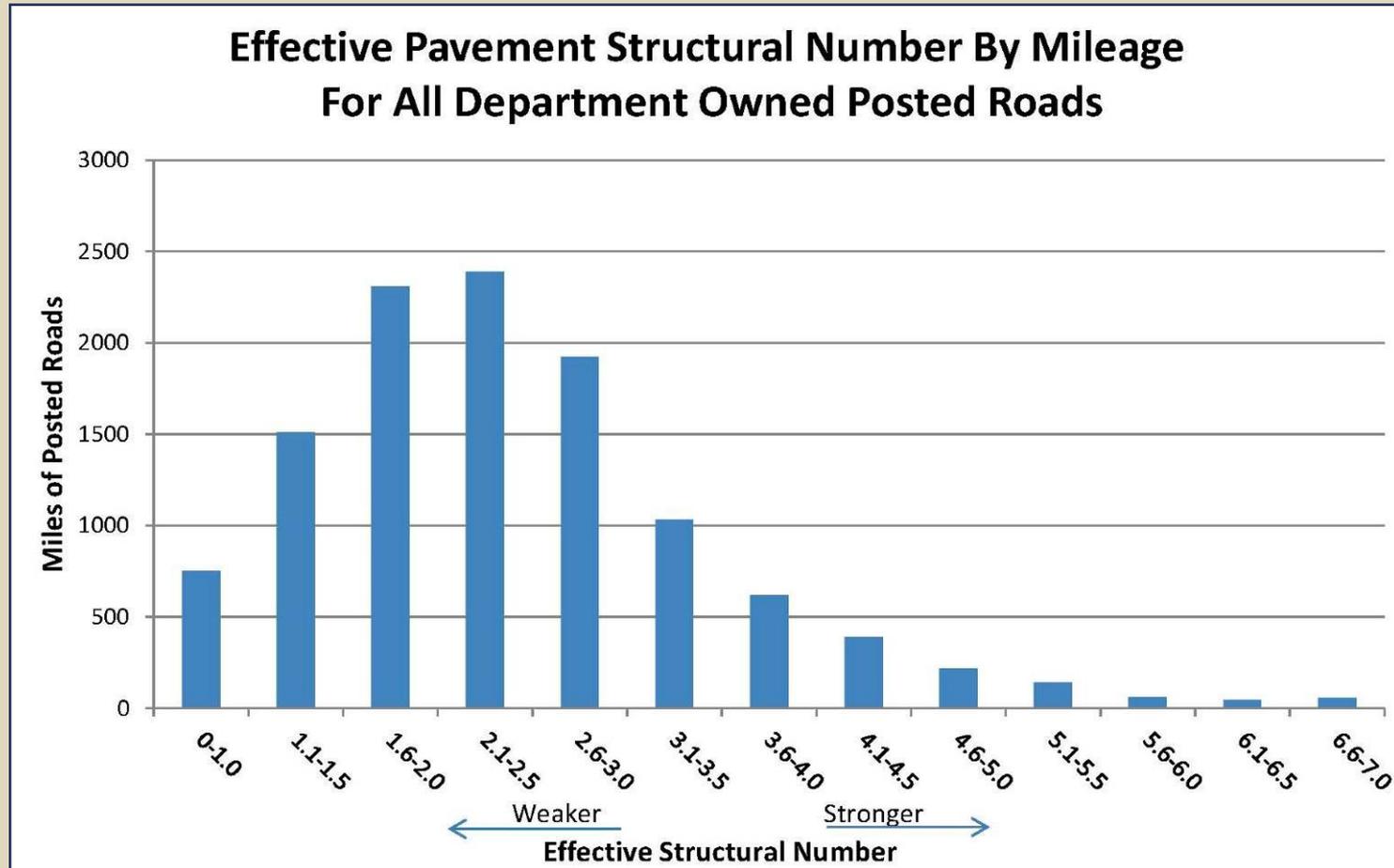
Application Review – De Minimis

TABLE 7.1 Average Initial Truck Factors (ESALs/Truck) by Vehicle Class

VEHICLE CLASSIFICATION			ESAL's	
Line # in DARWin® 3.01	FHWA Class	Corresponding Department Description	Rigid (Concrete)	LoLD Flexible (Pavement)
1	1	Motorcycle	0*	0*
2	2	Passenger Cars	0*	0*
3	3	SUV/Pick-up	0*	0*
4	4	BUS Factor	0.24	0.24
5	5	2-axle, 6-tire	0.24	0.24
6	6	3-axle, single unit	1.15	0.82
7	7	4-axle, single unit	7.00	4.50
8	8	3-axle, single trailer	0.60	0.44
9	9	3-axle, multiple axle trailer	1.59	1.00
10	10	6-axle, single trailer	1.42	0.75
11	11	5-axle, multiple trailer	2.40	2.33
12	12	6-axle, multiple trailer	1.42	1.28
13	13	7-axle, multiple trailer	1.42	1.28

*Note: Because motorcycles, passenger cars, and SUV/Pick-up trucks do not significantly contribute to the 18-kip ESALs they are considered negligible and an ESAL/truck factor of 0 is assigned. However, the percent of the ADT in this class must be input into DARWin because the Total Percentage must equal 100.00%. If there are any vehicles that are not large enough to be classified in any of the above classes, they should be grouped with the motorcycle percentage.

Application Review – De Minimis



Add/Drop/Expiration

- **ADD: Requested LoLD Hauling Activity Changes**
 - Routes may only be added to an LoLD by review and authorization of a **new application**
 - A new LoLD will be issued with the existing LoLD number
 - The previous expiration date will be retained

Add/Drop/Expiration

- **DROP: If requested by the USER**
 - Dropping a route(s) may be done via phone call or e-mail between the USER and the Posting Authority with pen and ink on the User's application
- **DROP: Close Out – UOG Permit and Bond**
 - A notification letter will be sent to the USER with an At-Risk LoLD 10 days before the scheduled closeout date
 - A revised LoLD will be provided to the USER with or without an application.

Add/Drop/Expiration

- **When an LoLD Expires**
 - A new application and review is required
 - A new LoLD will be issued if qualified

Enforcement

1. PSP must verify three types of documents in the vehicle:

- Most current and active Letter of Local Determination
- Proof of Authorized use (valid registration, lease or rental agreement)
- Proof of destination (bill of lading or documentation as per 67 Pa. Code § 189.3(c))



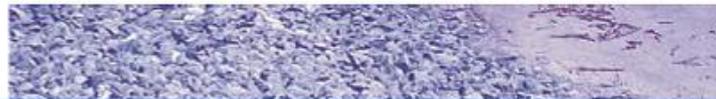
Enforcement

2. Verification

- PSP will have access to a general database of all past and revised LoLD. The database will be updated weekly.
- PSP will have access to GIS mapping of routes bonded by UOG to verify at-risk letters
- A list of PennDOT contact phone numbers will be provided to PSP to verify information they otherwise can't obtain.

For More Information

www.papostedroads.pa.gov



Posted and Bonded Roads Program *Contact Information*

As of May 23, 2012

District	Main Number	District Counties	Posted and Bonded Coordinator	E-Mail	Phone
1-0	814-678-7085	Crawford, Erie, Forest, Mercer, Warren and Venango counties	Kyle Riffle	kriffle@pa.gov	814-678-7090
2-0	814-765-0400	Cameron, Clearfield, Centre, Clinton, Elk, Juniata, McKean, Mifflin and Potter counties	Peter Kempf	pkempf@pa.gov	814-765-0495
3-0	570-368-8686	Bradford, Columbia, Lycoming, Montour, Northumberland, Snyder, Sullivan, Tioga and Union counties	Dave Neylon	dneylon@pa.gov	570-368-4215
4-0	570-963-4061	Lackawanna, Luzerne, Pike, Susquehanna, Wayne and Wyoming counties	Sal Donato	sadonato@pa.gov	570-963-4097
5-0	610-871-4100	Berks, Carbon, Lehigh, Monroe, Northampton and Schuylkill counties	Jack Hubbard	jahubbard@pa.gov	610-871-4136
6-0	610-205-6700	Bucks, Chester, Delaware, Montgomery and Philadelphia counties	Colleen Gambone	cgambone@pa.gov	610-205-6739
8-0	717-787-6653	Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry and York counties	William Davis	wbdavis@pa.gov	717-787-4766

PennDOT Bureau of Maintenance and Operations | 400 North St, 6th Floor | Harrisburg, PA 17120 | 717-787-6899
www.papostedroads.pa.gov



For More Information

www.papostedroads.pa.gov

District	Main Number	District Counties	Posted and Bonded Coordinator	E-Mail	Phone
9-0	814-696-7250	Bedford, Blair, Cambria, Fulton, Huntingdon and Somerset counties	Nichole Mertens	nmertens@pa.gov	814-696-7260
10-0	724-357-2800	Armstrong, Butler, Clarion, Indiana and Jefferson counties	Frank Mouser	fmouser@pa.gov	724-357-2898
11-0	412-429-5000	Allegheny, Beaver and Lawrence counties	Jonathon Gesinski	jgesinski@pa.gov	412-429-4946
12-0	724-439-7315	Fayette, Greene, Washington and Westmoreland counties	Dave Gault	dqault@pa.gov	724-439-7228
CENTRAL OFFICE					
Central Office	717-787-6899	Statewide	Mark Gaines Marcellus Shale Project Manager	maqaines@pa.gov	717-705-1716
Central Office	717-787-6899	Statewide	David Mallin Maint. Program Chief	damallin@pa.gov	717-787-3090

QUESTIONS/ANSWERS

For more information and future updates:

www.papostedroads.pa.gov

THANK YOU

For more information and future updates:

www.papostedroads.pa.gov