

Chapter 299: HIGHWAY DRIVEWAY AND ENTRANCE RULES

PART A: DRIVEWAY RULES**CONTENTS**

1. GENERAL PROVISIONS.....	1
1.1 Definitions.....	1
1.2 Purpose and Authority	3
1.3 Applicability	4
A. General.....	4
B. Relationship to Municipal/Land Use Regulation Commission (LURC) Requirements.....	4
2. TECHNICAL STANDARDS	4
2.1 Basic Safety Standards.....	4
A. Sight Distance	4
B. Driveway Width.....	4
C. Corner Clearance	4
D. Turnaround Area / Parking	5
E. Drainage Standards	5
F. Intersection Angle/Radius of Edges.....	6
G. Double Frontage Lots	6
2.2 Mobility Arterial Standards.....	6
A. Mobility Sight Distance	6
B. Spacing Between Driveways.....	6
C. Mobility Arterial Corner Clearance.....	7
D. Controlled Access Off-Ramp Setbacks	7
E. Shared Driveways	7
2.3 Retrograde Arterial Standards.....	7
3. ADMINISTRATION	7
3.1 Application.....	7
3.2 On-Site Meeting.....	8
3.3 Review and Decision	8
A. Review Time.....	8
B. Approvals.....	8
C. Waiver of Standards.....	9
D. Denials	11
E. Permit Expiration	11
3.4 Permit By Rules for Forest Management & Farming	11
A. Filing the Permit By Rule.....	11
B. Applicable Standards.....	11
C. Change of Use.....	11
D. PBR Approval	11
3.5 Reconsideration.....	12
3.6 Violations & Penalty	12
3.7 Appeals	12

APPENDICES

(APA Office Note: electronic versions of the appendices, except for Appendix H, are not available at this time.

Please contact the Department of Transportation for paper copies.)

- A. Maine Department of Transportation (MaineDOT) Contact Information
- B. List of Citations and Associated Text
- C1. List of State and State Aid Highways outside Urban Compact Areas Affected by the Driveway and Entrance Rules, including Major Collectors, Non-Compact Arterials
- C2. List and Description of Mobility Arterial and Retrograde Arterial Corridors
- D. List of Urban Compact and Service Center Communities
- E. Permit By Rule (PBR) Application Form for Forest & Farm Activities
- F. Application Form for Driveways and Entrances
- G. MaineDOT Standard Design Details
- H. Change of Use of Activity Categories..... 13

1. GENERAL PROVISIONS

1.1 Definitions

For the purposes of this rule, the following definitions will apply. If not defined below, the definitions contained in companion rules, Part B, Entrances Rules, as well as in 17-229 Maine Administrative Rules, Chapter 305, Rules and Regulations pertaining to Traffic Movement Permits, will apply. If not defined in these rules, words, terms and phrases will have their commonly accepted meaning.

- **Access.** A public or private point of entry or exit from land adjacent to a public highway used by motor vehicles as defined in Title 29-A MRSA ,Chapter 1, Section 101. The specific point may be described as an entrance or a driveway depending upon the land use and volume of traffic generated by that use. An access may be a driveway or an entrance depending upon the type of land use and volume of traffic generated by that use.
- **Access Point.** The intersection of an existing or proposed access with the public right of way.
- **Alteration.** A significant physical change to an access existing on or after the effective date of these rules, including significant changes to location, width, cross-section, grade, or drainage characteristics of the access. Paving a gravel access will not be considered an "alteration" unless accompanied by other such changes.
- **Applicant.** The person applying for the permit. Normally, this will be the owner of the property but can be another party provided that person (or organization) has been granted permission from the property owner to act on their behalf.
- **Arterial.** A highway providing long-distance connections as approved by the Federal Highway Administration pursuant to 23 Code of Federal Regulations, Section 470.105(b)(1999) and as so designated by MDOT.
- **Change in Use.** A change in activity occurring on the property accessed by the driveway that will result in (a) an intermittent or seasonal use becoming permanent or year round, or (b) an increase in daily traffic, or (c) a "significant drainage risk" as described in section 2.1(E)(3). Examples include changes in use (a) from farming or forestry to a single-family dwelling (b) from a single-family dwelling to a residential subdivision or multi-unit building(s) with six or more units, and (c) from residential use to commercial use; (d) an office expansion adding employee, patron or service capacity is a change in use when the daily traffic increases from under 50 trips per day to more than 50 trips per day. A change in ownership alone is not a change in use. An increase in activity from under 50 trips per day to over 50 trips per day is always considered a change in use. A change from seasonal residential to year-round residential is not considered a change of use under this definition. A more complete list of examples is listed in Appendix H.
- **Corner Clearance.** The minimum distance, measured parallel to a highway, between the nearest curb, pavement or shoulder line of an intersecting public way and the nearest edge of a driveway excluding its radii.

- **Driveway.** A type of access that serves one of the following land uses: residential (up to five dwelling units); home-based occupations; forest management activities; farming; low impact industrial (e.g. substations), unless MaineDOT demonstrates, in accordance with the latest edition of the ITE Trip Generation Manual, published by the Institute of Traffic Engineers that the use generates 50 or more vehicle trips per day.(see "ENTRANCE"). Driveways may consist of surface material such as mineral soil, gravel, asphalt or other natural or man-made material constructed or created by repeated passage of on-road vehicles.
- **Effective date of rules.** Minor Technical aspects of this rule became effective on April 5, 2002 and Major Substantive aspects became effective on May 25, 2002.
- **Entrance.** A type of access that serves one of the following land uses: residential (serving six or more dwelling units); housing developments; retail, office, or service business including department store, strip mall, convenience store, gas station, auto repair shop, restaurant, or similar use unless the applicant demonstrates to the satisfaction of MaineDOT, in accordance with the latest edition of the ITE Trip Generation Manual, published by the Institute of Transportation Engineers that the use generates less than 50 vehicle trips per day. Rules for Entrances are contained in Part B.
- **Forest Management Activities.** Activities consisting of timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, timber-stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands and other similar or associated activities.
- **Forest Management Road.** A route or track consisting of a bed of exposed mineral soil, gravel or other surfacing material constructed for or created by the repeated passage of motorized vehicles and used primarily for forest management activities, including associated log yard and winter haul roads.
- **Larger vehicle.** A vehicle that has a larger length, width or turning radius and/or lesser acceleration capability than standard passenger vehicles or small trucks. Larger vehicles include busses, commercial trucks, and recreational vehicles.
- **Lot(s) of Record.** A lot or lots for which the deed was legally recorded on or before the effective date of this rule or which was created by a plan legally recorded in the County Registry of Deeds on or before the effective date of this rule.
- **MaineDOT, MDOT or the Department.** The Maine Department of Transportation.
- **Mobility Arterial or Mobility Arterial Corridor.** A Non-Compact Arterial that (1) has a posted speed limit of 40 mph or more and is part of an arterial corridor located between Urban Compact Areas or Service Centers that carries an average annual daily traffic of at least 5,000 vehicles per day for at least 50% of its length or (2) is part of a Retrograde Arterial Corridor located between Mobility Arterials described in (1). Mobility Arterials are listed in Appendix C.
- **Mobility Sight Distance.** The sight distance required to allow a vehicle entering the highway to reach 85 % of the posted speed without being overtaken by a vehicle traveling at the posted speed and approaching the entering vehicle from behind.

- **Non-Compact Arterial.** An Arterial that lies outside Urban Compact Areas of Urban Compact Communities.
- **Permit by Rule.** A simplified procedure for forest management and farming activities by which the applicant may obtain a permit for maintenance or construction of a driveway necessary for the duration of the operation or activity.
- **Posted Speed.** The speed limit set and maintained by MaineDOT, or limited by statute as defined in Title 29A, MRSA, Chapter 19, Section 2024.
- **Retrograde Arterial or Retrograde Arterial Corridor.** A Mobility Arterial where the access related crash-per-mile rate exceeds the 1999 statewide average for Arterials of the same-posted speed limit. Retrograde Arterials are listed in Appendix C.
- **Service Center.** Communities that serve the surrounding region, drawing workers, shoppers and others into the community for jobs and services. A list of Urban Compact and Service Center Communities is attached as Appendix D.
- **Sight Distance.** The length of unobstructed sight line of motor vehicle drivers in normal daylight conditions. Sight distance is measured from the perspective of a hypothetical person seated in a vehicle from three vantage points: (1) sitting in the access viewing vehicles traveling on the highway (both left and right), (2) traveling on the highway viewing a vehicle sitting in an access and (3) traveling on the highway viewing a vehicle turning into the access (both ahead and behind). In case of discrepancy between these measurements, the lesser measurement will be used to determine whether the sight distance standard is met. Sight distance is measured to and from the point on the centerline of the proposed access that is located 10 feet from the edge of traveled way. The height of the hypothetical person's view is considered to be 3½ feet above the pavement and the height of the object being viewed is considered to be 4¼ feet above the pavement.
- **State or State Aid Highways.** Highways designated by MaineDOT as a State or State Aid Highway pursuant to 23 M.R.S.A. §53. State and State Aid Highways are listed in Appendix C.
- **Urban Compact Areas.** Areas defined and established pursuant to 23 M.R.S.A. § 754 as of the effective date of this rule. A list of Urban Compact and Service Center Communities is attached as Appendix D.
- **Vehicle trip.** Moving from an origination point to a destination point, one-way. It is not a round trip.

1.2 Purpose and Authority

The purpose of the driveway rules is to manage access to the highway in a manner that protects the safety of access and highway users, protects the highway system from the negative impacts of drainage, preserves mobility and economic productivity related to highway transportation, and avoids the long term cost of constructing new highway capacity. This rule is authorized by 23 M.R.S.A. §52 and §704.

1.3 Applicability

- A. **General.** This rule applies (1) to all public or private accesses onto state and state aid highways located outside urban compact areas, (2) the alteration of existing driveways onto said highways, and (3) to changes in use on the property serviced by such existing driveways.
- B. **Relationship to Municipal or Land Use Regulation Commission (LURC) Requirements.** Nothing in this rule supplants any municipal ordinance or LURC regulation. Where the requirements of this rule differ from a requirement of a municipal ordinance or LURC regulation, the most stringent or restrictive requirement as relates to the purpose of these rules will apply.

2. TECHNICAL STANDARDS

Driveways onto any state and state aid highway located outside urban compact areas must comply with the basic safety standards in Section 2.1. If the driveway is onto a Mobility Arterial, it must also comply with the additional or increased standards set forth in Section 2.2. If the driveway is onto a Retrograde Arterial, it must also comply with the additional or increased standards set forth in Sections 2.2 and 2.3.

2.1 Basic Safety Standards

- A. **Sight Distance.** The minimum allowable sight distances for all accesses onto all state and state aid highways located outside urban compact areas are set forth in Table 1. MaineDOT may require up to 50% greater sight distances when at least 30% of the traffic using the driveway will be by larger vehicles.

Table 1 – Sight Distance

Posted Speed (MPH)	Sight Distance (Feet)
20	155
25	200
30	250
35	305
40	360
45	425
50	495
55	570
60	645

- B. **Driveway Width.** Unless a waiver is granted pursuant to Section 3.3(C), driveway width within the highway right of way must be between 12 and 22 feet inclusive. The width of a driveway is the distance across the driveway, excluding radii, measured parallel to the highway.
- C. **Corner Clearance.** Unless a waiver is granted pursuant to Section 3.3(C), the minimum corner clearance for driveways is 75 feet for un-signalized intersections and 125 feet for

signalized intersections except that at no time will a driveway be located on the radius of the two intersecting roadways.

- D. **Turnaround Area / Parking.** Driveways will be designed such that all maneuvering and parking of any vehicles will take place outside of the highway right of way and such that vehicles may exit the premises without backing onto the highway traveled way or shoulder. All driveways will have a turnaround area at least 8 feet wide by 15 feet long. MaineDOT may require a larger turnaround area to accommodate larger vehicles that are expected to use the driveway on a regular basis. Where the state or state aid roadway speed limit is posted at or below 35 mph, a waiver may be granted, in accordance with Section 3.3(C) for a use in existence as of May 25, 2002 that proposes a driveway alteration or change of use so long as the change of use generates no more than 50 trips per day.
- E. **Drainage Standards.**
- (1) **Culvert Size.** Pursuant to 23 M.R.S.A. §705, MaineDOT will determine the diameter of culverts within the highway right of way depending upon local conditions.
 - (2) **Construction and Maintenance Standards.** Driveways, on-site ditches, swales, pipes and other structures that direct runoff toward MaineDOT ditches or drainage systems must be constructed, crowned, stabilized and maintained with stable materials and appropriate erosion control measures such as permanent vegetation or stone.
 - (3) **Mitigation.** If the proposed development poses a significant drainage risk, then the applicant must mitigate the impacts of increases in peak flow from storms into MaineDOT drainage systems through measures specified by MaineDOT, unless a waiver is granted pursuant to section 3.3(C). Mitigation measures may include on-site controls, off-site improvements, or payment of a fee pursuant to 23 M.R.S.A. §57-A. A "significant drainage risk" exists (a) when the applicant proposes a fixed connection to a closed system drainage structure owned by MaineDOT or (b) when MaineDOT determines, using accepted engineering and hydrologic principles, that: (i) the proposed driveway has a grade of 10% or greater for a length of 150 feet or more draining toward the highway; (ii) the proposed development has more than 10,000 square feet of impervious surface draining toward the highway, or (iii) the proposed development will substantially contribute to the failure of a downstream MaineDOT facility. "Impervious surfaces" are the footprint of buildings, pavement, gravel, or other low-permeability or compacted surfaces, not including natural or man-made water bodies. "Peak flow" is the greatest rate of flow in a drainage way, measured as volume per unit of time, resulting from storms up to a 50-year event.
- F. **Intersection Angle / Radius of Edges.** To the maximum extent practical, the driveway will be constructed perpendicular to the highway at the access point. The minimum radius on the edge of a driveway, if any, must be 10 feet. MaineDOT may require that the edges of the driveway have a radius if larger vehicles are expected to use the driveway on a regular basis.

- G. **Double Frontage Lots.** Unless a waiver is granted pursuant to Section 3.3(C), driveways for lots with frontage on a Non-compact Arterial and another public way, will be restricted to the other public way, unless MaineDOT determines that queuing of traffic entering a driveway off the other public way would interfere with traffic on the Non-compact Arterial due to insufficient lot frontage along the other public way. If the other public way is a mobility or retrograde arterial, the driveway must be located on the highway frontage that allows the intent of this rule to be most effectively and efficiently met.

2.2 Mobility Arterial Standards

In addition to the standards in Section 2.1, driveways onto Mobility Arterials must also comply with the increased or additional standards in this Section 2.2.

- A. **Mobility Sight Distance.** Unless a waiver is granted pursuant to Section 3.3(C), the sight distance for driveways onto Mobility Arterials must meet or exceed the distance listed in Table 2. Sight distance is measured in accordance with its definition.

Table 2 - Mobility Sight Distance

Posted Speed (MPH)	Sight Distance (Feet)
20	Not applicable
25	Not applicable
30	Not applicable
35	Not applicable
40	580
45	710
50	840
55	990
60	1,150

- B. **Spacing Between Driveways.** Unless a waiver is granted pursuant to Section 3.3(C), new driveways onto Mobility Arterials must be separated from other existing or proposed driveways or entrances including those located across the highway and those serving the same lot, in accordance with the minimum spacing standards set forth in Table 3. Driveway spacing is measured from edge of proposed driveway/entrance to edge of driveway/entrance, excluding radii. Driveways or entrances located directly across the highway from the proposed driveway are not counted in applying the spacing standard.

Table 3 – Minimum Driveway Spacing Standards

Posted Speed (MPH)	Driveway Separation (Feet)
25 or less	Not applicable
30	Not applicable
35	Not applicable

40	175
45	265
50	350
55 or more	525

- C. **Mobility Arterial Corner Clearance.** The minimum corner clearance for driveways onto Mobility Arterials must be 125 feet, except as provided in Section 2.2(D) and unless a waiver is granted pursuant to Section 3.3(C). The Department of Transportation may require greater corner clearance if the department determines it is necessary to prevent a significant impact on public safety or a reduction in the posted speed limit.
- D. **Controlled Access Off-Ramp Setback.** The minimum corner clearance for driveways onto Mobility Arterials from a controlled access off-ramp must be 500 feet, unless a waiver is granted pursuant to Section 3.3(C). Minimum corner clearance for driveways onto Mobility Arterials from controlled access on-ramps must meet the requirements of section 2.2 (C).
- E. **Shared Driveways.** Whenever possible, property owners will seek opportunities for shared driveways onto Mobility Arterials.

2.3 Retrograde Arterial Standards

In addition to the applicable standards in Sections 2.1 and 2.2, applicants for driveways onto Retrograde Arterials may be required to create or expand paved shoulders for a length not to exceed 75' on either side of the proposed driveway and pave the apron of the proposed driveway if MDOT reasonably determines that, when built, the driveway will significantly impact public safety or will necessitate a reduction in posted speed.

3. ADMINISTRATION

In cases of new driveways, or those involving a change of use, a MaineDOT permit is required prior to the commencement of any site work or construction of or addition to the building(s), or other improvement(s) activity relating to the change of use, or in cases not involving such construction, prior to commencement of the new activity that constitutes the change of use. In cases of alterations of existing driveways, a MaineDOT permit is required prior to commencement of construction or alteration of the portion of the driveway that lies within the state or state aid road.

3.1 Application

The applicant shall complete MaineDOT's Driveway Permit Application form and submit it to the MaineDOT Regional Office having jurisdiction over the state or state aid highways onto which the driveway is proposed. MaineDOT may reduce the amount of information required on a case-by-case basis as necessary to assure compliance with the applicable driveway standards. If an applicant seeks a waiver from the driveway standards, the request and the reasons for the requested waiver must be submitted as an attachment to the application form.

3.2 On-Site Meeting

If MaineDOT determines that a site visit is required to assure compliance with this rule, or if the applicant requests a site visit, MaineDOT will arrange an on-site meeting with the applicant within one business week of receiving an application.

3.3 Review and Decision

- A. **Review Time.** MaineDOT must issue a permit decision within 15 business days of an applicant's filing a complete application unless MaineDOT reasonably determines additional information or time is needed to make a decision.
- B. **Approvals.** MaineDOT may approve the application and issue a permit subject to any conditions necessary to assure compliance with the applicable driveway standards. Approvals will include a brief statement of the findings and conclusions that support approval. At a minimum, the property owner will be required to meet the following standard permit conditions:
 - (1) Provide, erect and maintain all necessary barricades, lights, warning signs and other devices as directed by MaineDOT to safeguard traffic properly while the construction is in progress.
 - (2) At no time cause the highway to be closed to traffic.
 - (3) Where the driveway is located within a curb, curb and gutter, and/or sidewalk section, completely remove the existing curb, curb and gutter, and/or sidewalk as may be required to create the driveway and restore drainage. All driveways abutting sidewalk sections shall meet the requirements set forth in the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 *et seq.*
 - (4) Obtain, have delivered to the site and install any culverts and/or drainage structures which may be necessary for drainage, the size, type and length as called for in the permit pursuant to 23 M.R.S.A. §705. All culverts and/or drainage structures shall be new.
 - (5) Start construction of the proposed driveway within twenty-four (24) months of the date of permit issuance and substantially complete construction of the proposed driveway within twelve months of commencement of construction.
 - (6) Comply with all applicable federal, state and municipal regulations and ordinances.
 - (7) Not alter, without the express written consent of MaineDOT, any culverts or drainage swales within the MaineDOT right of way.
 - (8) File a copy of the approved driveway permit with the affected municipality or LURC, as appropriate within 5 business days of receiving the MaineDOT approval.
 - (9) Construct and maintain the driveway side slopes to be no steeper than the adjacent roadway side slopes, but in no case to be steeper than 3 horizontal to 1

vertical, unless the side slope is behind existing roadway guardrail, in which case it shall be no steeper than 2 horizontal to 1 vertical.

- (10) Notify MaineDOT of a proposed change of use served by the driveway when increase in traffic flow is expected to occur. This does not exempt the need for obtaining a Traffic Movement Permit (TMP) if trip generation meets or exceeds 100 passenger car equivalents (pce) during the peak hour of the day.
- (11) Construct or implement and maintain erosion & sedimentation measures sufficient to protect MaineDOT's facilities.
- (12) Driveways shall be designed such that all maneuvering and parking of any vehicles will take place outside the highway right-of-way and where vehicles will exit the premises without backing onto the highway traveled way or shoulders. All driveways will have a turnaround area to accommodate vehicles using the premises.

Applicants that seek a permit for a change in use or an alteration of a driveway that existed on the effective date of this rule that does not conform to the driveway standards outlined in the rule will be granted a permit as long as the change of use or alteration does not increase any such nonconformance and improves the safety and / or drainage of the driveway. If the proposed alteration is for relocation, the permit must require the elimination of the former driveway such that it can no longer be used to access the highway or adjacent land.

Conditions may include deed restrictions that shall be notarized and recorded at the appropriate Registry of Deeds within 90 days of permit issuance.

- C. Waiver of Standards. Driveway standards may be relaxed or waived only as provided in these rules. Requests for waiver should be in writing and should be submitted as an attachment to the permit application; however, MaineDOT may receive a request during permit administration and such request shall be so noted on the application by the applicant.

- 1. Standards that may not be Waived: The sight distance standards of Section 2.1(A) may not be waived.
- 2. Further, waivers will not be granted to a property owner whose property has been granted limited access entrances in accordance with 23 M.R.S.A. §303.
- 3. Standards that may be Waived: Limited waivers relating to turnaround and parking requirements of section 2.1(D) may be granted for cases involving a change of use or alterations of an existing access that the Department determines will likely result in a net gain to public safety or will result in a reduction in its non-conformity with these rules. The spacing standards in Table 3 of Section 2.2 (B) may be waived only to the extent that lots of record existing as of May 25, 2002, the effective date of these rules, that do not have access to another public way and do not have sufficient lot frontage to meet these spacing standards, may be allowed access if the applicant meets the criteria for granting waivers set forth in section 3.3 (C) 4 below. **On mobility arterial segments posted at 40 or 45 mph only, the spacing standards of**

Table 3 Section 2.2 (B) may be waived for lots created after May 25, 2002 only if;

- a. the applicant meets the criteria of granting waivers set forth below and;**
- b. the proposed access is located within .2 of a mile of an existing 35 mph or less speed zone located on the mobility arterial to be accessed;**
- c. the proposed access is located in an area designated for growth in the municipality's locally adopted comprehensive plan;**
- d. the subdivision requirements of 30-A M.R.S.A § 4404(5) are met, if applicable, and the applicant certifies that he/she will comply with the building permit requirements of 30-A 4103(3)(D); and**
- e. the proposed access will not have an unreasonable adverse impact on the Department's ability to maintain the existing posted speed limit.**

All other standards may be waived in accordance with the provisions of this section. Alterations or a change in use of an existing access that the Department determines will likely result in a net gain to public safety or will result in a reduction in its non-conformity with these rules are eligible for such waivers.

- 4. Criteria for Granting Waivers. Waiver requests will be granted if the applicant demonstrates, to the reasonable satisfaction of MaineDOT, that: (i) the waiver will not significantly detract from public safety, (ii) the proposed driveway meets the standards to the maximum extent practicable, and (iii) there is no feasible alternative.**
 - a. In determining whether the granting of a waiver will detract from public safety, the department shall consider such factors as crash rates, traffic volumes, road geometrics, types and frequency of traffic moving to and from existing uses within 1000 feet of the proposed driveway.**
 - b. In determining practicability and feasibility, MaineDOT will consider the availability and cost of alternative driveway locations and designs in relation to the proposed use.**
 - c. In cases involving alterations or changes of use of existing accesses, the Department may grant waiver requests if it determines the alteration will likely result in a net gain to public safety or will result in a reduction in the driveway's non-conformity with these rules.**
 - d. In cases involving double frontage lots, MaineDOT will consider the length of frontage on the Mobility Arterial, the intensity of traffic generated by the proposed use, the geography along the frontage of the other public way and the distance to the other public way.**
 - e. The spacing requirement under Section 2.2 B Mobility Arterial Standards that "driveways or entrances across the highway must be**

considered” is hereby waived. Only existing or proposed driveways/entrances on the same side of the highway as proposed driveway or entrance need be considered in applying the spacing standard provided that the proposed driveway or entrance is located such to minimize traffic conflicts as approved by MaineDOT.

5. **Waiver Procedure and Formalities.** Upon receipt of the waiver request, MaineDOT will review the request and determine whether to grant the request, deny the request, or grant the request with any reasonable condition(s). Waiver determinations will be in writing and sent to the applicant. All waivers granted must be notarized and provide that the terms thereof attach to and run with the land and that failure to record the waiver in the appropriate Registry of Deeds within 90 days of the date of the waiver will cause it to be null and void. The applicant is responsible for such recording.

Reconsideration and appeal of waiver decisions must be made pursuant to Section 3.5 and 3.7.

- D. **Denials.** When denying an application, MaineDOT will send the applicant a notice setting forth a brief statement of the reason for the denial (example - “the proposed driveway does not meet the sight distance standard) and the process for reconsideration.
- E. **Permit Expiration.** A permit will expire within 24 months of the date of issuance if the driveway construction is not commenced. If waivers or conditions are not recorded at the appropriate Registry of Deeds within 90 days of permit issuance, the permit will expire.

3.4 **Permit By Rule for Forest Management and Farming Driveways**

- A. **Filing the Permit by Rule (PBR).** Applications for driveways for forest management and farming activities shall be made pursuant to the Section 3.1 or by the Permit-by-Rule (PBR) process. To use the PBR process, the applicant must file a completed PBR application form with MDOT. The applicant may request approval of more than one driveway on one PBR form. The PBR application form will require sufficient information to allow the MDOT to assure compliance with the following minimum construction and maintenance standards.
- B. **Applicable Standards.** Each driveway must meet the minimum sight distance standards set forth in Section 2.1, Table 1. The applicant must provide the available sight distance at the proposed driveway(s) on the PBR application form.
- C. **Change of Use.** Property owners, or their agents, with driveways developed for forest management and farming activities on state or state aid highways who propose to convert the property use to a use other than for forest management or farming activities, must file for and obtain a permit for the proposed use.
- D. **PBR Approval.** The PBR is approved once it is filed provided all applicable standards are met. If the PBR is found to be in non-compliance at any time after the filing date, the MDOT will notify the applicant who must remedy the non-compliance. In such instances, the MDOT may require conditions of approval as outlined in Section 3.3. (B) and may limit the life of the driveway(s). If the applicant does not adhere to the conditions or correct the deficiencies, the MDOT may revoke

the permit in accordance with the denial provisions of Section 3.3. (D) and may commence enforcement action against the applicant in accordance with Section 3.6.

3.5 Reconsideration

An applicant who is aggrieved by the MaineDOT permit decision, may request reconsideration by the Regional Manager, but must do so in writing within 30 business days after receipt of MaineDOT's permit decision.

The request for reconsideration must set forth the findings and conclusions of MaineDOT to which the person objects, the basis of those objections, the nature of the relief requested, and whether a hearing is requested. If requested by the applicant and if MaineDOT determines a hearing is warranted, a hearing will be held in the community where the subject property is located, ordinarily within 15 business days of receiving the reconsideration request.

The MaineDOT Regional Manager will issue a written decision, ordinarily within 15 business days of receiving the reconsideration request or, if a hearing is held, within 15 business days of the close of the hearing. The decision will set forth the Regional Manager's reasons for either affirming or modifying the original permit decision.

Appeal of a reconsideration decision must be made pursuant to section 3.7.

3.6 Violation & Penalty

Any violation of this rule is subject to a fine of \$50 per day per violation. Such fine begins to accrue 30 calendar days after the MDOT sends notice of the violation to the landowner by regular and certified mail, unless within said 30 day period corrective action has been taken, or a written plan outlining corrective action to be taken is submitted and approved by MDOT. If the landowner fails to take timely corrective action in accordance with such approved plan as reasonably determined by MDOT, the fine will accrue from the date of such failure.

Reconsideration of a notice of violation may be requested in accordance with Section 3.5.

Appeal of a reconsidered violation must be made pursuant to Section 3.7.

3.7 Appeals

Appeal of final decisions of the Regional Manager must be made in writing to the Commissioner within 15 business days of receipt of the reconsideration decision of the Regional Manager. The appeal decision of the Commissioner or his or her designee will be considered final agency action.

Judicial review of such final agency action must be in accordance with the Maine Administrative Procedure Act, 5 M.R.S.A. §11001, *et seq.* and Rule 80C of the Maine Rules of Civil Procedure.

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Appendix H

Change of Use Categories:

Driveway Use Categories	Entrance Use Categories
Except for Farming and Forestry changes to other uses which always require a permit, change of use occurs when a use changes from one category to another and when trips per day increase. For example: Multi Family changing from 3 to 5 units IS NOT a change in use (still a driveway). However, Multi Family changing from 1 to 6 units is (Driveway to Entrance); Home business/service/professional changing to Business Professional & Service under 50 trips IS a change in use; Institutional Uses under 50 trips changing to Retail Use under 50 trips IS a change in use. A Retail Use changing to an Institutional use is a change in use. A change of use permit will be required when a use within a driveway category increases activity on site to change from a driveway to an entrance.	
Farming & Forestry uses under 50 trips per day	Farming & Forestry uses over 50 trips per day
Single Family, Duplex or Multi Family up to 5 units	Multi Family with 5 or more units
Home business /retail under 50 trips per day	Home business/retail over 50 trips per day
Home business/service/professional under 50 trips per day	Home business/professional/service over 50 trips per day
Business Professional & Service under 50 trips per day *	Business Professional & Service over 50 trips per day*
Institutional Uses under 50 trips per day**	Institutional Uses over 50 trips per day**
Retail uses under 50 trips per day	Retail uses over 50 trips per day
Manufacturing, Mineral Extraction, Warehousing and Storage uses under 50 trips per day	Manufacturing, Mineral Extraction, Warehousing and Storage uses over 50 trips per day
*Business Professional & Service uses include real estate, beauty shop, day care, lawyer, appraiser, appliance and residential machinery repair shops and similar uses ** Institutional Uses include schools, hospitals, courts, jails and similar uses	

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63

64

65

66

67

68

69

70

71

72

73

74

75

76

77

78

79

80

81

82

PART B: ENTRANCE RULES

CONTENTS

1. GENERAL PROVISIONS.....	1
1.1. Definitions.....	1
1.2. Purpose and Authority.....	4
1.3. Applicability.....	4
A. General.....	4
B. Relationship to Municipal or Land Use Regulation Commission Requirements.....	4
2. TECHNICAL STANDARDS.....	4
2.1 Basic Safety Standards.....	5
A. Sight Distance.....	5
B. Entrance Width.....	5
C. Corner Clearance.....	5
D. Turnaround Area / Parking.....	5
E. Drainage Standards.....	6
F. Intersection Angle / Radius of Edges.....	6
G. Profile Requirements.....	6
2.2 Major Collector & Arterial Standards.....	7
A. Paving of Entrance.....	7
B. Corner Clearance From Controlled Access Off-Ramp.....	7
C. On-Street Parking Requirements.....	7
D. Radius of Edges.....	7
E. Throat Length.....	7
F. Entrance Separator Strips.....	7
G. Loading Dock Requirements.....	8
H. One-way Entrance Requirements.....	8
I. Double Frontage Lots.....	8
2.3 Mobility Arterial Standards.....	8
A. Mobility Sight Distance.....	8
B. Spacing Between Entrances.....	9
C. Arterial Corner Clearance.....	9
D. Number of Entrances.....	10
E. Traffic Signal Restrictions.....	10
(1) Prohibition on 55 mph Arterials.....	10
(2) Signal Spacing Requirements.....	10
F. Limitation on Location of Public Facilities.....	10
G. Shared Entrances.....	11
H. Mitigation.....	11
2.4 Retrograde Arterial Standards.....	12
A. Traffic Study.....	12
B. Paved Shoulders.....	12
C. Mobility Enhancement Measures.....	12
3. ADMINISTRATION.....	12
3.1 Application.....	13
A. New Entrances.....	13
B. Alteration of Existing Entrances.....	13
C. Change of Use.....	13
D. Sources of Data and Information Requirements.....	14
3.2 On-Site Meeting.....	14
3.3 Review and Decision.....	14
A. Review of Application for Completeness.....	14
B. Review of Application for Issuance.....	14

C.	Approvals.....	14
D.	Waiver of Standards	16
E.	Denials.....	18
F.	Permit Expiration.....	18
3.4	Permit By Rule for Forest Management and Farming Entrances	18
A.	Filing the Permit by Rule (PBR).....	18
B.	Applicable Standards	18
C.	Change of Use.....	18
D.	Permit By Rule Approval.....	18
3.5	Reconsideration.....	19
3.6	Violation and Penalty	19
3.7	Appeals.....	19

APPENDICES

(APA Office Note: electronic versions of the appendices, except for Appendix H, are not available at this time. Please contact the Department of Transportation for paper copies.)

- A. Maine Department of Transportation (MaineDOT) Contact Information
- B. List of Citations and Associated Text
- C1. List of State and State Aid Highways outside Urban Compact Areas Affected by the Driveway and Entrance Rules, Including Major Collectors, Non-Compact Arterials
- C2. List and Description of Mobility Arterial and Retrograde Arterial Corridors
- D. List of Urban Compact and Service Center Communities
- E. Permit By Rule (PBR) Application Form for Forest & Farm Activities
- F. Application Form for Driveways and Entrances
- G. MaineDOT Standard Design Details
- H. Change of Use or Activity Categories See Page 13 of Driveway Rule, above

1. GENERAL PROVISIONS

1.1 Definitions

For the purposes of this rule, the following definitions will apply. If not defined below, the definitions contained in companion rules, Part A, Driveway Rules, as well as in 17-229 Maine Administrative Rules, Chapter 305, Rules and Regulations pertaining to Traffic Movement Permits, will apply. If not defined in these rules, words, terms and phrases will have their commonly accepted meaning.

- **Access.** A public or private point of entry or exit from land adjacent to a public highway used by motor vehicles as defined in Title 29-A, Chapter 1, Section 101. The specific point may be described as an entrance or a driveway depending upon the land use and volume of traffic generated by that use. An access may be a driveway or an entrance depending upon the type of land use and volume of traffic generated by that use.
- **Access Point.** The intersection of an existing or proposed access with the public right of way.
- **Alteration.** A significant physical change to an existing access including significant changes to location, width, cross-section, grade, or drainage characteristics of the access. Paving a gravel access will not be considered an "alteration" unless accompanied by other such changes.
- **Applicant.** The person applying for the permit. Normally, this will be the owner of the property but can be another party provided that person (or organization) has been granted permission from the property owner to act on their behalf.
- **Arterials.** A highway providing long-distance connections as approved by the Federal Highway Administration pursuant to 23 Code of Federal Regulations, Section 470.105(b)(1999) and as so designated by MDOT.
- **Change in Use.** A change in activity occurring on the property accessed by the entrance that will result in (a) an intermittent or seasonal use becoming permanent or year round, or (b) an increase in daily traffic, or (c) a "significant drainage risk" as described in section 2.1(E)(3). Examples include changes in use (a) from farming or forestry to a single-family dwelling (b) from a single-family dwelling to a residential subdivision or multi-unit building(s) with six or more units, and (c) from residential use to commercial use. A restaurant expansion adding patron capacity is a change in use when the daily traffic increases from under 50 trips per day to more than 50 trips per day. Any change in activity that increases the daily trips from under 50 to over 50 trips per day is a change in use. A change in ownership alone is not a change in use. A more complete list of examples is listed in Appendix H.
- **Corner Clearance.** The minimum distance, measured parallel to a highway, between the nearest curb, pavement or shoulder line of an intersecting public way and the nearest edge of an entrance excluding its radii.

- **Design Vehicle.** The longest and widest vehicle expected to use the entrance on a regular basis as reasonably determined by MaineDOT. Regular basis means several times during any week; the use need not be daily.
- **Designated Downtown.** The area as defined in 30-A M.R.S.A. §4301, subsections 5-A.A and 5-A.B.
- **Driveway.** A type of access that serves one of the following land uses: residential (up to five dwelling units); home-based occupations; forest management activities; farming; low impact industrial (e.g. substations), unless MaineDOT demonstrates, in accordance with the latest edition of the ITE Trip Generation Manual published by the Institute of Traffic Engineers, that the use generates 50 or more vehicle trips per day.(see "ENTRANCE"). Driveways may consist of surface material such as mineral soil, gravel, asphalt or other natural or man-made material constructed or created by repeated passage of on-road vehicles. Rules for Driveways are contained in Part A.
- **Entrance.** A type of access that serves one of the following land uses: residential (serving six or more dwelling units); housing developments; retail, office, or service business including department store, strip mall, convenience store, gas station, auto repair shop, restaurant, or similar use unless the applicant demonstrates to the satisfaction of MaineDOT, in accordance with the latest edition of the ITE Trip Generation Manual published by the Institute of Transportation Engineers, that the use generates less than 50 vehicle trips per day.
- **Effective Date of Rules.** Minor Technical aspects of this rule became effective on April 5, 2002 and Major Substantive aspects became effective on May 25, 2002.
- **Entrance Width.** The distance across the entrance, excluding radii, measured parallel to the highway.
- **Forest Management Activities.** Activities consisting of timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, timber-stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands and other similar or associated activities.
- **Forest Management Road.** A route or track consisting of a bed of exposed mineral soil, gravel or other surfacing material constructed for or created by the repeated passage of motorized vehicles and used primarily for forest management activities, including associated log yard and winter haul roads.
- **Larger vehicle.** A vehicle that has a larger length, width or turning radius and/or lesser acceleration capability than standard passenger vehicles or small trucks. Larger vehicles include busses, commercial trucks, and recreational vehicles.
- **Lot(s) of Record.** A lot or lots for which the deed was legally recorded on or before the effective date of this rule or which was created by a plan legally recorded in the County Registry of Deeds on or before the effective date of this rule.
- **MaineDOT, MDOT or the Department.** The Maine Department of Transportation.

- **Major Collector.** A highway located outside the urban compact area that provides connections between Arterials and local roads as designated by MaineDOT. Major Collectors are listed in Appendix C.
- **Mobility Arterial or Mobility Arterial Corridor.** A Non-Compact Arterial that (1) has a posted speed limit of 40 mph or more and is part of an arterial corridor located between Urban Compact Areas or Service Centers that carries an average annual daily traffic of at least 5,000 vehicles per day for at least 50% of its length or (2) is part of a Retrograde Arterial Corridor located between Mobility Arterials described in (1). Mobility Arterials are listed in Appendix C.
- **Mobility Sight Distance.** The sight distance required to allow a vehicle entering the highway to reach 85 % of the posted speed without being overtaken by a vehicle traveling at the posted speed and approaching the entering vehicle from behind.
- **Non-compact Arterial.** An Arterial that lies outside Urban Compact Areas of Urban Compact Communities. Non-compact Arterials are listed in Appendix C.
- **Permit by Rule.** A simplified procedure for forest management and farming activities by which the applicant may obtain a permit for maintenance or construction of an entrance necessary for the duration of the operation or activity.
- **Posted Speed.** The speed limit set and maintained by MaineDOT, or limited by statute as defined in Title 29A, MRSA, Chapter 19, Section 2024.
- **Retrograde Arterial or Retrograde Arterial Corridor.** A Mobility Arterial where the access related crash-per-mile rate exceeds the 1999 statewide average for Arterials of the same-posted speed limit. Retrograde Arterials are listed in Appendix C.
- **Service Center.** Communities that serve the surrounding region, drawing workers, shoppers and others into the community for jobs and services. A list of Urban Compact and Service Center Communities is attached as Appendix D.
- **Sight Distance.** The length of unobstructed sight line of motor vehicle drivers in normal daylight conditions. Sight distance is measured from the perspective of a hypothetical person seated in a vehicle from three vantage points: (1) sitting in the access viewing vehicles traveling on the highway (both left and right), (2) traveling on the highway viewing a vehicle sitting in a access and (3) traveling on the highway viewing a vehicle turning into the access (both ahead and behind). In case of discrepancy between these measurements, the lesser measurement shall be used to determine whether the sight distance standard is met. Sight distance is measured to and from the point on the centerline of the proposed access that is located 10 feet from the edge of traveled way. The height of the hypothetical person's view is considered to be 3½ feet above the pavement and the height of the object being viewed is considered to be 4¼ feet above the pavement.
- **State or State Aid Highways.** Highways designated by MaineDOT as a State or State Aid Highway pursuant to 23 M.R.S.A. §53. State and State Aid Highways are listed in Appendix C.

- **Urban Compact Areas.** Areas defined and established pursuant to 23 M.R.S.A. §754 as of the effective date of this rule. A list of Urban Compact and Service Center Communities is attached as Appendix D.
- **Vehicle trip.** Moving from an origination point to a destination point, one-way. It is not a round trip.

1.2 Purpose and Authority

The purpose of the rules is to manage access to the highway in a manner that protects the safety of access and highway users, protects the highway system from the negative impacts of drainage, preserves mobility and the economic productivity related to highway transportation, and avoids the long term cost of constructing new highway capacity. This rule is authorized by 23 M.R.S.A. §52 and §704.

1.3 Applicability

- General.** This rule applies to (1) all public or private accesses onto state and state aid highways located outside urban compact areas, (2) the alteration of existing entrances onto said highways, and (3) to changes in use on the property serviced by such existing entrances.
- Relationship to Municipal or Land Use Regulation Commission (LURC) Requirements.** Nothing in this rule supplants any municipal ordinance or LURC regulation. Where the provisions of this rule differ from a provision of a municipal ordinance or LURC regulation, the most stringent or restrictive provision as relates to the purpose of these rules will apply.
- Traffic Movement Permit.** Development that generates 100 or more passenger car equivalents in a peak hour in any one day must apply for a Traffic Movement Permit and need not apply for an Entrance Permit. Such development must comply with the performance standards outlined in this rule unless already more restrictive in the Traffic Movement Permit rule; however, all other application procedures, including the issuance of a permit, will be in accordance with requirements in 17-229, Maine Administrative Rule, Chapter 305, Rules and Regulations Pertaining to Traffic Movement Permits pursuant to M.R.S.A. 23 704-A.

2. TECHNICAL STANDARDS

The technical standards that apply depend upon the type of highway. Entrances onto any state and state aid road located outside urban compact areas must comply with the basic safety standards in Section 2.1. If the entrance is onto a Major Collector or a Non-compact Arterial, it must also comply with the increased or additional standards in Section 2.2. If the entrance is onto a Mobility Arterial, it must also comply with the increased or additional standards in Sections 2.2 and 2.3. If the entrance is onto a Retrograde Arterial, it must also comply with the increased or additional standards in Sections 2.2, 2.3 and 2.4.

2.1 Basic Safety Standards

- A. **Sight Distance.** The minimum allowable sight distances for all entrances onto all state and state aid highways located outside urban compact areas are set forth in Table 1. For standard passenger vehicles, the sight distances shown in the middle column apply. Unless a waiver is granted pursuant to Section 3.3(D), if more than 30% of the traffic projected to use the proposed entrance will be larger vehicles, the sight distances shown in the right hand column apply.

Table 1 – Sight Distance

Posted Speed	Sight Distance Standard Vehicles	Sight Distance Larger Vehicles
(MPH)	(Feet)	(Feet)
20	155	230
25	200	300
30	250	375
35	305	455
40	360	540
45	425	635
50	495	740
55	570	855
60	645	965

- B. **Entrance Width.** If 30% or less of the traffic projected to use the proposed entrance will be larger vehicles, the width of a two-way entrance within the highway right of way must be between 22 and 30 feet inclusive, unless a waiver is granted pursuant to Section 3.3(D). If more than 30% of the traffic projected to use the proposed entrance will be larger vehicles, the width of a two-way entrance within the highway right of way must be between 30 and 42 feet inclusive, unless a waiver is granted pursuant to Section 3.3(D). Entrances must be designed in accordance with the MaineDOT Standard Details included in Appendix G. Unless a waiver is granted pursuant to Section 3.3(D), the entrance width will be the minimum necessary to accommodate the design-vehicle.
- C. **Corner Clearance.** Unless a waiver is granted pursuant to Section 3.3(D), the minimum corner clearance for entrances onto Major Collectors or Non-Compact Arterials must be 100 feet for un-signalized intersections and 125 feet for signalized intersections except that at no time will an entrance be located on the radius of the two intersecting roadways.
- D. **Turnaround Area / Parking.** Entrances will be designed such that all maneuvering and parking of any vehicles will take place outside of the highway right of way and such that vehicles may exit the premises without backing onto the highway traveled way or shoulder. All entrances must have a turnaround area with a width of at least 8 feet and a length of at least 15 feet or the length of the design vehicle, whichever is greater.

E. Drainage Standards

- (1) **Culvert Size.** Pursuant to 23 M.R.S.A. §705, MaineDOT will determine the diameter of culverts within the highway right of way depending upon local conditions.
- (2) **Construction and Maintenance Standards.** Driveways, on-site ditches, swales, pipes and other structures that direct runoff toward MaineDOT ditches or drainage systems must be constructed, crowned, stabilized and maintained with stable materials and appropriate erosion control measures such as permanent vegetation or stone.
- (3) **Mitigation.** If the proposed development poses a significant drainage risk, then the applicant must mitigate the impacts of increases in peak flow from storms into MaineDOT drainage systems through measures specified by MaineDOT, unless a waiver is granted pursuant to section 3.3(D). Mitigation measures may include on-site controls, off-site improvements, or payment of a fee pursuant to 23 M.R.S.A. §57-A. A "significant drainage risk" exists (a) when the applicant proposes a fixed connection to a closed system drainage structure owned by MaineDOT or (b) when MaineDOT determines, using accepted engineering and hydrologic principles, that: (i) the proposed driveway has a grade of 10% or greater for a length of 150 feet or more draining toward the highway; (ii) the proposed development has more than 10,000 square feet of impervious surface draining toward the highway, or (iii) the proposed development will substantially contribute to the failure of a downstream MaineDOT facility. "Impervious surfaces" are the footprint of buildings, pavement, gravel, or other low-permeability or compacted surfaces, not including natural or man-made water bodies; "Peak flow" is the greatest rate of flow in a drainage way, measured as volume per unit of time, resulting from storms up to a 50-year event.
- (4) **Retail Fueling Station Requirements.** Applicants with entrances for use by retail fueling stations must demonstrate that in the event of a spill, deposit of contaminants in the right-of-way of the state or state aid highway will be contained.

F. Intersection Angle / Radius of Edges. To the maximum extent practical, the entrance must be constructed perpendicular to the highway at the access point. Except where curbing exists or is proposed, the minimum radius on the edges of an entrance must be 10 feet, unless a waiver is granted pursuant to Section 3.3(D).

G. Profile Requirements. The profile of the entrance must comply with the MaineDOT Standard Details included in Appendix G, unless a waiver is granted pursuant to Section 3.3(D).

2.2 Major Collector & Arterial Standards

In addition to the standards in Section 2.1, entrances onto Major Collectors & Non-compact Arterials must also comply with the increased or additional standards in this Section 2.2.

- A. **Paving of Entrance.** The entrance including all radii must be paved from the edge of pavement of the highway to the highway right-of-way or to the length of the design vehicle, whichever is greater, unless a waiver is granted pursuant to Section 3.3(D).
- B. **Corner Clearance from Controlled Access Off-Ramp.** The minimum corner clearance from a controlled access off-ramp must be 500 feet, unless a waiver is granted pursuant to Section 3.3(D). Minimum corner clearance for driveways onto Mobility Arterials from controlled access on-ramps must meet the requirements of Section 2.1(C).
- C. **On-Street Parking.** Except in Designated Downtowns with existing posted speeds at or below 35 mph, parking within the highway right-of-way is prohibited. In Designated Downtowns with posted speeds at or below 35 mph, only parallel or diagonal on-street parking is permitted. Perpendicular parking is prohibited. Direct access into one or more off-street parking spaces is prohibited. Parking must not be situated such that it blocks sight distance along the highway or where vehicle headlights within the parking area may interfere with vision of drivers on the highway.
- D. **Radius of Edges.** Except where curbing exists or is proposed, the minimum radius on the edge of an entrance must be sufficient to allow the design vehicle to enter the entrance without encroaching into the path of exiting vehicles in accordance with the MaineDOT Standard Details included in Appendix G, unless a waiver is granted pursuant to Section 3.3(D).
- E. **Throat Length.** The throat is a portion of an entrance used to store vehicles waiting to exit from the entrance. The throat must be of sufficient length to prevent incoming vehicles from queuing back into the highway. Access from the throat to parking or other areas is prohibited, unless a waiver is granted pursuant to Section 3.3(D).
- F. **Entrance Separator Strips.** A separator strip is a strip of land that separates the roadway from the throat or parking area of an entrance. Entrance separator strips must be installed between the parking area and the roadway and along the throat, unless a waiver is granted pursuant to Section 3.3(D). The separator strip may include curbing, walkways, ditching or vegetation. The separator strip must extend away from the highway to the greater of (1) 5 feet from the right-of-way limits, (2) in areas where the right of way limits are defined by wrought portion, 7 feet from the edge of a clearly evident shoulder, or (3) in such wrought portion areas where a shoulder is not clearly evident, 9 feet from the edge of the traveled way. The property owner must maintain any vegetation within the separator strip such that it does not interfere with the sight distance at the entrance. In areas where sidewalks exist, curbing or wheel stops must be provided to prevent parking vehicles from interfering with pedestrian flow.

- G. **Loading Dock Requirements.** Loading docks or other delivery areas must not be located within the right-of-way and must be situated so that delivery vehicles do not encroach on the highway right-of-way. All trucks must maneuver entirely on-site.
- H. **One-way Entrance Requirements.** If a one-way system is proposed and the predominant traffic volume is truck traffic, the entrance will be configured on the minimum angle that permits the truck to enter or leave the highway safely and smoothly. Otherwise, all entrances will be configured perpendicular to the highway for at least the length of the design vehicle.

A physical separation of curbing, ditching, grass or other landscaping must be used for one-way entrances and must be designed and constructed to prevent adjacent one-way entrances from becoming one entrance in practice. Both portions of a one-way entrance on a single lot must be separated from another one-way entrance by at least 12 feet. Both portions of a one-way entrance abutting a sidewalk must have a minimum separation of at least 18 feet and allow for 7 foot terminal ends and at least a 4 foot header in between. A terminal end is the end section of a run of curb that is sloped to aid the design vehicle in turning into the entrance or to meet Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 *et seq.*, requirements. A header is a piece of curbing between two terminal ends.

A one-way entrance abutting a curbed, non-sidewalk section must have a minimum separation of at least 12 feet and allow for two 4-foot terminal ends separated by at least a 4-foot header.

- I. **Double Frontage Lots.** Unless a waiver is granted pursuant to Section 3.3(D), entrances for lots with frontage on a Non-compact Arterial and another public way, will be restricted to the other public way, unless MaineDOT determines that queuing of traffic using an entrance off the other public way would interfere with traffic on the Non-compact Arterial due to insufficient lot frontage along the other public way. If the other public way is a mobility or retrograde arterial the entrance must be located on the highway frontage that allows the intent of this rule to be most effectively and efficiently met.

2.3 Mobility Arterial Standards

In addition to the applicable standards in Sections 2.1 and 2.2, entrances onto Mobility Arterials must also comply with the increased or additional standards in this Section 2.3.

- A. **Mobility Sight Distance.** The sight distance for entrances onto Mobility Arterials must meet or exceed the distance listed in Table 2, unless a waiver is granted pursuant to Section 3.3(D). Sight distance is measured in accordance with its definition.

Table 2 - Mobility Sight Distance

Applicable Speed (MPH)	Sight Distance (Feet)
20	Not applicable
25	Not applicable
30	Not applicable
35	Not applicable
40	580
45	710
50	840
55	990
60	1,150

- B. Spacing Between Entrances.** Unless a waiver is granted pursuant to Section 3.3(D), new entrances onto Mobility Arterials must be separated from other existing or proposed driveways or entrances including those located across the highway and those serving the same lot, in accordance with the minimum spacing standards set forth in Table 3. Entrance spacing is measured from edge of driveway/entrance to edge of driveway/entrance, excluding radii. Driveways or entrances located directly across the highway from the proposed entrance will not be counted in applying the spacing standard.

Table 3 - Minimum Entrance Spacing Standards

Posted Speed (MPH)	Entrance Separation (Feet)
25 or less	Not applicable
30	Not applicable
35	Not applicable
40	175
45	265
50	350
55 or more	525

When the traffic volume from the proposed entrance warrants installation of a traffic signal, the Minimum Signal Spacing standards in Table 4 will supplant the entrance spacing standards set forth in Table 3, unless the signal spacing standards are waived pursuant to Section 3.3(D).

- C. Mobility Arterial Corner Clearance.** The minimum corner clearance for entrances onto Mobility Arterials must be 125 feet, except as provided in Section 2.2(C) regarding controlled access off-ramps, and except that MDOT may require increased corner clearance if MDOT reasonably determines that the proposed entrance will significantly impact public safety or cause a reduction in posted speed.

- D. Number of Entrances.** Except for forestry management and farming activities, lots on Mobility Arterials will be limited to one two-way or two one-way entrances, unless a waiver is granted pursuant to a Section 3.3(D).
- E. Traffic Signal Restrictions.**
- (1) Prohibition on 55 mph Arterials.** No proposed entrance will be permitted on a Mobility Arterial with a posted speed limit of 55 mph or greater if the proposed entrance serves a development that warrants installation of a traffic signal.
 - (2) Signal Spacing.** Unless a waiver is granted pursuant to Section 3.3 (D), traffic signals will be restricted such that they are spaced along the Mobility Arterial so as to meet or exceed the distances set forth in Table 4.

Table 4 - Minimum Signal Spacing

Applicable Speed	Applicable Non-compact Arterials
Mph	Feet
20	Not applicable
25	Not applicable
30	Not applicable
35	Not applicable
40	2,600
45	3,000
50	3,600
55	Not Permitted

- F. Limitation on Location of Public Facilities.** Except as provided otherwise in this section and unless waived pursuant to Section 3.3. (D), a public facility will not be granted an entrance onto a Mobility Arterial where the posted speed limit equals or exceeds 45 mph. Public facility means all improvements owned or operated by the state, a municipality, school administrative district or other public educational entity, regulated public utility, or other public entity. Public facilities include, but are not limited to, municipal offices, public works garages, and schools. This limitation does not apply to:
- Official State Visitor Information Centers and Traveler Rest Areas.
 - State Park-and-Ride facilities.
 - State or Federal recreation facilities (parks, boat launch areas and other similar facilities).
 - Municipal recreation facilities where it can be shown that no other reasonable or feasible alternative exists.

- **Public Facilities in the planning stages and for which public expenditures in the form of acquisition, final design and construction have already been made or committed before the effective date of this rule.**
 - **Public facilities that generate sufficiently low volume of traffic so as to qualify for a driveway permit pursuant to MDOT's Driveway Rules, 17-229 Maine Administrative Rules Chapter 299, Part A. Such facilities may include fire towers, power substations, water towers or sanitary pump stations and telephone equipment huts.**
- G. Shared Entrances. Whenever possible, property owners should seek opportunities for shared entrances onto Mobility Arterials.**
- H. Mitigation. When the proposed entrance has been granted a waiver from these standards by MDOT and if MDOT reasonably determines, based upon accepted traffic engineering principles, that the proposed entrance will significantly impact public safety or cause a reduction in posted speed, the MDOT may require mitigation of traffic impacts from a proposed entrance onto a Mobility Arterial. In making such determinations, MDOT may consider existing developments planned or reasonably expected on the parcel of land owned or controlled by the applicant.**

If mitigation is required, applicants will be required to employ and, in some instances maintain, one or more of the mitigation techniques listed below. Such techniques generally will be considered in the order listed based upon the degree of impact of the proposed entrance.

- (1) Signage**
 - (2) Removal of vegetation**
 - (3) Lighting**
 - (4) Payment of a fee pursuant to 23 M.R.S.A. §57-A equal to an amount necessary for MDOT to purchase an easement on an adjacent lot for purposes of developing a shared entrance.**
 - (5) Payment of a fee pursuant to 23 M.R.S.A. §57-A equal to an amount necessary for MDOT to purchase easements across one or more lots for purposes of developing a frontage road for entrances serving residential subdivisions or commercial or industrial uses or parks.**
 - (6) Center and/or two-way left turn lanes.**
 - (7) Acceleration and/or deceleration lanes.**
 - (8) Medians and jug handles or turnarounds.**
 - (9) Grade or alignment change to the Mobility Arterial**
-

- (10) **Signal installation for entrances in accordance with Section 2.3(E)(2) unless specifically prohibited by this rule.**

Whenever construction occurs within the MDOT right-of-way, a construction and maintenance agreement between MDOT and the applicant generally will be required.

2.4 Retrograde Arterial Standards

In addition to the applicable standards in Sections 2.1, 2.2, and 2.3, entrances onto Retrograde Arterials must also comply with the increased or additional standards in this Section 2.4.

- A. Traffic Study.** When the proposed entrance is projected to generate between 10 and 99 passenger car equivalent trips in a peak hour, MDOT may require the applicant to develop a traffic impact study in accordance with 17-229, Maine Administrative Rules, Chapter 305, Rules and Regulations pertaining to Traffic Movement Permits, pursuant to 23 M.R.S.A. §704-A.
- B. Paved Shoulders.** MDOT may require the applicant to create or expand paved shoulders along the highway at the proposed entrance to assure and improve safe access and egress to and from the highway.
- C. Mobility Enhancement Measures.** MDOT may require applicants to provide for improvement of the existing safety or mobility levels through mobility enhancement measures if MDOT reasonably determines, based upon accepted traffic engineering principles, that the proposed entrance will significantly impact public safety or cause a reduction in posted speed. Mobility enhancement measures include:
 - (1) Elimination, combination or modification of existing driveways or entrances within the retrograde arterial corridor.**
 - (2) Development of frontage, backage or other service road within the retrograde arterial corridor to provide alternate access to existing driveways or entrances.**

Such measures may be implemented either by willing buyer and willing seller agreements or by payment of a fee pursuant to 23 M.R.S.A. §57-A to the MDOT to acquire the rights necessary to implement one of such measures.

3. ADMINISTRATION

In cases of new entrances, or those involving a change of use, a MaineDOT permit is required prior to the commencement of site work or construction of or addition to the building(s), or other improvement(s) activity relating to the change of use, or in cases not involving such construction, prior to commencement of the new activity that constitutes the change of use. In cases of alterations of existing driveways, a MaineDOT permit is required prior to commencement of construction or alteration of the portion of the driveway that lies within the state or state aid road.

3.1 Application

The applicant must complete MaineDOT's Entrance Permit Application or Permit by Rule form and submit it to the MaineDOT Regional Office having jurisdiction over the state or state aid highways onto which the driveway is proposed. If an applicant seeks a waiver from the entrance standards, the request and the reasons for the requested waiver must be submitted as an attachment to the application form.

- A. **New Entrances.** Applications for new entrances will be made on MaineDOT's application form and will be subject to the following additional requirements:
 - (1) **Medium Volume Entrances.** A medium volume entrance is one that generates between 10 and 99 passenger car equivalent trips in the peak hour. Such applications must comply with the performance standards outlined in this rule. Where runoff from the development served by the entrance enters the highway drainage system, the Department may require the applicant to submit a drainage impact analysis performed by a Registered Professional Engineer licensed in the State of Maine. When located on a Mobility or Retrograde Arterial, the Department may require the applicant to develop a traffic impact study in accordance with 17-229, Maine Administrative Rules, Chapter 305, Rules and Regulations pertaining to Traffic Movement Permits pursuant to 23 M.R.S.A. §704-A. MaineDOT reserves the right to require attachments or analyses to such applications that may be reasonably necessary to review and assess the application or complete the permit application.
 - (2) **High Volume Entrances.** A high volume entrance is one that generates 100 or more passenger car equivalent (pce) trips in the peak hour in any one day. Such applications must comply with the performance standards outlined in this rule unless already more restrictive in the Traffic Movement Permit rule; however, all other application procedures, including the issuance of a permit, will be in accordance with requirements in 17-229, Maine Administrative Rule, Chapter 305, Rules and Regulations Pertaining to Traffic Movement Permits, pursuant to M.R.S.A. 23 §704-A. Only the Traffic Movement Permit is required.
 - (3) **Costs.** All costs associated with development of traffic or drainage impact analyses must be borne by the applicant.
- B. **Alteration of Existing Entrance.** Applications that seek an alteration to an entrance that existed on the effective date of this rule and that does not conform to the entrance standards outlined in this rule, will be approved provided the alteration does not increase any such non-conformance and as long as the safety and drainage impact of the entrance is improved. If the approved alteration is for relocation, the permit will require the elimination of the former entrance such that it can no longer be used to access the highway or adjacent land.
- C. **Change of Use.** A new entrance permit will be required for existing entrances when the use being served by such entrance will change. The standards outlined in Section 2 will apply.

- D. **Sources of Data and Information Requirements.** Applications for entrances must be consistent with the data and information requirements of these resources: "A Policy on Geometric Design of Highways and Streets", 2001, AASHTO, and MaineDOT's Highway Design Guide, Volumes One and Two, December 2004, available at MaineDOT.

3.2 On-Site Meeting

If MaineDOT determines that a site visit is required to assure compliance with this rule or if the applicant requests a site visit MaineDOT will arrange an on-site meeting with the applicant within one business week of receiving an application.

3.3 Reviews and Decision

- A. **Review of Application for Completeness.** The Department will accept applications for entrance permits after determining that all information required for making a decision on the application has been submitted.

At the time the application is filed or re-filed, the Department will provide the applicant with a receipt indicating the time and date the application is received and will have 20 working days to determine whether the application is complete. If the application is not complete, the Department will inform the applicant in writing of the specific information required so that it may be reviewed as a complete application.

- B. **Review of Application for Issuance.** Except for permit applications for High Volume Entrances, which will be subject to the permit process pursuant to 23 M.R.S.A. §704-A, the Department will act upon an application within 20 working days of receiving a complete application.

- C. **Approvals.** If the Department finds that the accepted application information is accurate and that the design and location of the proposed entrance or the proposed alteration to the existing entrance or the change of use occurring at the existing entrance meets the requirements of this rule, and any other rule or law administered by the department, a permit approval or an approval with conditions will be issued.

When mitigation or mobility enhancement measures are required pursuant to Sections 2.3 (H) and 2.4 (C), the Department may require the applicant, prior to construction, to submit a performance and payment bond or certified check payable to the State of Maine, in an amount and form that complies with the General Conditions of MDOT's Standard Specifications for Construction. In addition, the Department may require that notice of conditions applicable to the entrance be recorded in the appropriate Registry of Deeds.

MaineDOT may approve the application subject to any conditions necessary to assure compliance with the applicable entrance standards. Approvals will include a brief statement of the findings and conclusions supporting the approval. At a minimum, the applicant will be required to meet the following standard permit conditions:

- (1) Provide, erect and maintain all necessary barricades, lights, warning signs and other devices as directed by MaineDOT to safeguard traffic properly while the work is in progress.
- (2) At no time cause the highway to be closed to traffic.
- (3) Where the entrance is located within a curb, curb and gutter, and/or sidewalk section, completely remove the existing curb, curb and gutter, and/or sidewalk as may be required to create the entrance and restore drainage. All entrances abutting sidewalk sections shall meet the requirements set forth in the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 *et seq.*
- (4) Obtain, deliver to site and install any culverts and/or drainage structures necessary for drainage; the size, type and length of such culverts or structures shall be as specified in the permit pursuant to 23 M.R.S.A. §705. All culverts and/or drainage structures shall be new.
- (5) Start construction of the proposed entrance within twenty-four (24) months of the date of permit issuance and complete construction of the proposed entrance within twelve months of commencement of construction.
- (6) Comply with all applicable federal, state and municipal regulations and ordinances.
- (7) Not alter, without the express written consent of MaineDOT, any culverts or drainage swales within the MaineDOT right-of-way.
- (8) File a copy of the approved entrance permit with the affected municipality or LURC, as appropriate within 5 business days of receiving the MaineDOT approval.
- (9) Construct and maintain the entrance side slopes to be no steeper than the adjacent roadway side slopes, but in no case to be steeper than 3 horizontal to 1 vertical, unless the side slope is behind existing roadway guardrail, in which case it shall be no steeper than 2 horizontal to 1 vertical.
- (10) Notify MaineDOT of a proposed change of use served by the entrance when increase in traffic flow is expected to occur. This does not exempt the need for obtaining a Traffic Movement Permit (TMP) if trip generation meets or exceeds 100 passenger car equivalents (pce) during the peak hour of the day.
- (11) Construct or implement and maintain erosion & sedimentation measures sufficient to protect MaineDOT facilities.
- (12) Entrances shall be designed such that all maneuvering and parking of any vehicles will take place outside the highway right-of-way and where vehicles will exit the premises without backing onto the highway

traveled way or shoulders. All entrances will have a turnaround area to accommodate vehicles using the premises.

Applicants that seek a permit for a change in use or an alteration of an entrance that existed on the effective date of this rule that does not conform to the entrance standards outlined in the rule will be granted a permit as long as the change of use or alteration does not increase any such nonconformance and improves the safety and / or drainage of the entrance. If the proposed alteration is for relocation, the permit must require the elimination of the former entrance such that it can no longer be used to access the highway or adjacent land.

Conditions may include deed restrictions that shall be notarized and recorded at the appropriate Registry of Deeds within 90 days of permit issuance.

- D. **Waiver of Standards.** Entrance standards may be relaxed or waived only as provided in these rules. Requests for waiver should be in writing and should be submitted as an attachment to the permit application; however, MaineDOT may receive a request during permit administration and such request shall be so noted on the application by the applicant.
1. **Standards that may not be Waived:** The sight distance standards of Section 2.1(A), the on-street parking standards of section 2.2(C), the loading dock requirements of section 2.2(G), the Mobility Arterial corner clearance standard of section 2.3(C) and the Traffic signal restriction of 2.3(E).1 may not be waived.
 2. Further, waivers will not be granted to a property owner whose property has been granted limited access entrances in accordance with 23 M.R.S.A. §303.
 3. **Standards that may be Waived:** Limited waivers relating to turnaround and parking requirements of section 2.1(D) may be granted for a cases involving a change of use or alterations of an existing access that the Department determines will likely result in a net gain to public safety or will result in a reduction in its non-conformity with these rules. The spacing standards in Table 3 of Section 2.2 (B) may be waived only to the extent that lots of record existing as of May 25, 2002, the effective date of these rules, that do not have access to another public way and do not have sufficient lot frontage to meet these spacing standards, may be allowed access if the applicant meets the criteria for granting waivers set forth in section 3.3 (D) 4 below. **On mobility arterial segments posted at 40 or 45 mph only, the spacing standards of Table 3 Section 2.2(B) may be waived for lots created after May 25, 2002 only if:**
 - a. the applicant meets the criteria of granting waivers set forth below and;
 - b. the proposed access is located within .2 of a mile of an existing 35 mph or less speed zone located on the mobility arterial to be accessed;

- c. **the proposed access is located in an area designated for growth in the municipality's locally adopted comprehensive plan;**
- d. **the subdivision requirements of 30-A M.R.S.A § 4404(5) are met, if applicable, and the applicant certifies that he/she will comply with the building permit requirements of 30-A 4103(3)(D); and**
- e. **the proposed access will not have an unreasonable adverse impact on the Department's ability to maintain the existing posted speed limit.**

All other standards may be waived in accordance with the provisions of this section.

- 4. **Standards for Granting Waivers. Waiver requests will be granted if the applicant demonstrates, to the reasonable satisfaction of MaineDOT, that: (i) the waiver will not significantly detract from public safety, (ii) the proposed driveway meets the standards to the maximum extent practicable, and (iii) there is no feasible alternative.**
 - a. **In determining that the waiver will not significantly detract from public safety, the department shall consider such factors as crash rates, traffic volumes, road geometrics, types and frequency of traffic moving to and from existing uses within 1000 feet of the proposed driveway.**
 - b. **In determining practicability and feasibility, MaineDOT will consider the availability and cost of alternative driveway locations and designs in relation to the proposed use.**
 - c. **In cases involving alterations or changes of use of existing accesses, the Department may grant waiver requests if it determines the alteration will likely result in a net gain to public safety or will result in a reduction in the driveway's non-conformity with these rules.**
 - d. **In cases involving double frontage lots, MaineDOT will consider the length of frontage on the Mobility Arterial, the intensity of traffic generated by the proposed use, the geography along the frontage of the other public way and the distance to the other public way.**
 - e. **The spacing requirement under Section 2.3 B Mobility Arterial Standards that "driveways or entrances across the highway must be considered" is hereby waived. Only existing or proposed driveways/entrances on the same side of the highway as proposed driveway or entrance need be considered in applying the spacing standard provided that the proposed driveway or**

entrance is located such to minimize traffic conflicts as approved by MaineDOT.

5. **Waiver Procedure and Formalities.** Upon receipt of the waiver request, MaineDOT will review the request and determine whether to grant the request, deny the request, or grant the request with any reasonable condition(s). Waiver determinations will be in writing and sent to the applicant. All waivers granted must be notarized and provide that the terms thereof attach to and run with the land and that failure to record the waiver in the appropriate Registry of Deeds within 90 days of the date of the waiver will cause it to be null and void. The applicant is responsible for such recording.

Reconsideration and appeal of waiver decisions must be made pursuant to Section 3.5 and 3.7.

- E. **Denials.** If the Department finds that the information provided in an accepted application is inaccurate or that the design and location of the proposed entrance or of the proposed change to the existing entrance does not meet the requirements of this rule, a permit will be denied. The denial of a permit must include a brief statement of the findings and conclusions causing such denial. Upon issuing a permit denial, the Department will also inform the applicant of the process for reconsideration or waiver, as appropriate.
- F. **Permit Expiration.** A permit will expire within 24 months of the date of issuance if the entrance construction is not commenced. If waivers or conditions are not recorded at the appropriate Registry of Deeds within 90 days of permit issuance, the permit will expire.

3.4 Permit By Rule for Forest Management and Farming Entrances

- A. **Filing Permit by Rule (PBR).** Applications for entrances for forest management and farming activities must be made pursuant to Section 3.1 or by the Permit by Rule (PBR) process. To use the PBR process, the applicant must file a completed PBR application form with MDOT. The applicant may request approval of more than one entrance on one PBR form. The permit by rule application form will require sufficient information to allow the MDOT to assure compliance with the following minimum construction and maintenance standards.
- B. **Applicable Standards.** Each entrance must meet the minimum sight distance standards set forth in Section 2.1. The applicant must provide the available sight distance on the PBR application form.
- C. **Change of Use.** Property owners, or their agents, with driveways developed for forest management and farming activities on state or state aid highways who propose to convert the property use to a use other than for forest management or farming activities, must file for and obtain a permit for the proposed use.

- D. Permit By Rule (PBR) Approval.** The PBR is approved once it is filed provided all applicable standards are met. If the PBR is found to be in non-compliance at any time after the filing date, the MDOT will notify the applicant who must remedy the non-compliance. In such instances, the MDOT may require conditions of approval as outlined in Section 3.3(C) and may limit the life of the entrance(s). If the applicant does not adhere to the conditions or correct the deficiencies, the MDOT may revoke the permit in accordance with the denial provisions of Section 3.3(E) and may commence enforcement action against the applicant in accordance with Section 3.6.

3.5 Reconsideration

An applicant who is aggrieved by the MaineDOT permit decision, may request reconsideration by the Regional Manager but must do so in writing within 30 business days after receipt of MaineDOT's permit decision.

The request for reconsideration must set forth the findings and conclusions of MaineDOT to which the person objects, the basis of those objections, the nature of the relief requested, and whether a hearing is requested. If requested by the applicant, and if MaineDOT determines a hearing is warranted, a hearing will be held in the community where the subject property is located, ordinarily within 15 business days of receiving the reconsideration request.

The MaineDOT Regional Manager will issue a written decision, ordinarily within 15 business days of receiving the reconsideration request or, if a hearing is held, within 15 business days of the close of the hearing. The decision will set forth the Regional Manager's reasons for either affirming or modifying the original permit decision.

Appeal of a reconsideration decision must be made pursuant to section 3.7.

3.6 Violation & Penalty

Any violation of this rule is subject to a fine of \$100 per day per violation. Such fine begins to accrue 30 calendar days after the MDOT sends notice of the violation to the landowner by regular and certified mail, unless within said 30 day period corrective action has been taken, or a written plan outlining corrective action to be taken is submitted and approved by MDOT. If the landowner fails to take timely corrective action in accordance with such approved plan as reasonably determined by MDOT, the fine will accrue from the date of such failure.

Reconsideration of a notice of violation may be requested in accordance with Section 3.5. Appeal of a reconsidered violation must be made pursuant to Section 3.7.

3.7 Appeals

Appeal of final decisions of the Regional Manager must be made in writing to the Commissioner within 15 business days of receipt of the reconsideration decision of the Regional Manager. The appeal decision of the Commissioner or his or her designee will be considered final agency action.

Judicial review of such final agency action must be in accordance with the Maine Administrative Procedure Act, 5 M.R.S.A. §11001, *et seq.* and Rule 80C of the Maine Rules of Civil Procedure.

(APA Office Note: electronic versions of the appendices, except Appendix H above, are not available at this time. Please contact the Department of Transportation for paper copies.)

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NON-SUBSTANTIVE CORRECTIONS:

August 7, 2002 - inserted bold to indicate major substantive portions; corrected
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AMENDED:

November 23, 2003 - filing 2003-441, routine technical language only

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