

Authority

The provisions of this § 459.3 amended under section 411, 420 and 702 of the State Highway Law (36 P. S. §§ 670-411, 670-420 and 670-702).

Source

The provisions of this § 459.3 adopted July 13, 1979, effective August 13, 1979, 9 Pa.B. 2338; amended August 7, 1981, effective August 8, 1981, 11 Pa.B. 2779; amended January 20, 1989, effective March 22, 1989, 19 Pa.B. 241; amended September 2, 2011, effective September 3, 2011, 41 Pa.B. 4772. Immediately preceding text appears at serial pages (254077) to (254080) and (337751) to (337752).

Notes of Decisions

While 67 Pa. Code § 459.3(b) clearly excludes private developers from applying for state highway right-of-way occupancy permits, nothing in the language of the regulation compels a township to apply for the permits in their stead; thus, the township did not possess standing to challenge the exclusion of private developers. *South Whitehall Township v. Department of Transportation*, 475 A.2d 166 (Pa. Cmwlth. 1984).

Third party, a competitor of the permit applicant, had no standing to challenge the Department's decision to issue permits since the third party would suffer only economic harm, long after completion of construction, and would suffer no direct and immediate physical damage to a property interest (the type of damage this section is designated to prevent). *Equitable Gas Co. v. Department of Transportation*, 504 A.2d 402 (Pa. Cmwlth. 1986); appeal denied 522 A.2d 46 (Pa. 1987).

Cross References

This section cited in 67 Pa. Code § 459.1 (relating to definitions); 67 Pa. Code § 459.5 (relating to issuance of permits); 67 Pa. Code § 459.6 (relating to emergency work); 67 Pa. Code § 459.7 (relating to general conditions); and 67 Pa. Code § 459.10a (relating to bridge occupancy).

§ 459.4. Permit fees.

(a) *Permit application fees.* Application fees charged to defray costs incurred by the Department in reviewing and processing the application and plans, including the preliminary review of the site location identified in the application, whether or not a permit is issued and processed shall be as follows:

- (1) Application fee—\$50.
- (2) Supplement fee (each 6-month time extension) (each submitted change)—\$10.
- (3) Emergency permit card (each card)—\$5.

(b) *General permit inspection fees.* General inspection fees charged to defray costs incurred by the Department in spot inspections of permitted work or subsequent inspections

after the permitted work has been completed and to monitor compliance with the permit and this chapter shall be as follows:

(1) Surface openings. This fee is calculated on the total linear feet of the opening being permitted with different areas of the right-of-way.

(i) Total linear feet of opening (each 100 feet increment or fraction thereof):

(A) Opening in pavement—\$40.

(B) Opening in shoulder—\$20.

(C) Opening outside pavement and shoulder—\$10.

(ii) If a longitudinal opening simultaneously occupies two or more highway areas identified in subparagraph (i), only the higher fee will be charged. Linear distances shall be measured to the nearest foot.

(2) Surface opening of less than 36 square feet—for example, service connections performed independently of underground facility installation, pipe line repairs—(each opening):

(i) Opening in pavement—\$30.

(ii) Opening in shoulder—\$15.

(iii) Opening outside pavement and shoulder—\$10.

(iv) If an opening simultaneously occupies two or more highway areas identified in subparagraphs (i)—(iii), only the higher fee will be charged.

(3) Aboveground facilities (for example, poles, or guys or anchors if installed independently of poles).

(i) Up to ten physically connected aboveground facilities (each continuous group)—\$20.

(ii) Additional aboveground physically connected facilities (each pole with appurtenances)—\$2.

(4) Crossings (for example, overhead tipples, conveyors or pedestrian walk-ways, and undergrade subways or mines)—\$80.

(5) Seismograph—Vibroseis method (for example, prospecting for oil or gas).

(i) First mile—\$50.

(ii) Each additional mile or fraction therefore—\$5.

(6) Nonemergency test holes in pavement or shoulder (each hole)—\$5.