



2007-01-17

Regulatory Analysis Form		This space for use by IRRC	
(1) Agency Transportation		IRRC Number: 2068	
(2) I.D. Number (Governor's Office Use) #18-352 (IRRC-2068)			
(3) Short Title Distribution of Highway Maintenance Funds			
(4) Pa Code Cite 67 Pa. Code, Chapter 453		(5) Agency Contacts & Telephone Numbers Primary Contact: J. Michael Long, P.E. (717) 787-1153 Secondary Contact: Janice. Arellano, P.E. (717) 787-7294	
(6) Type of Rulemaking (Check One) <input type="checkbox"/> Proposed Rulemaking <input checked="" type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking Omitted		(7) Is a 120-Day Emergency Certification Attached? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor	
(8) Briefly explain the regulation in clear and non-technical language. The purpose of these regulations is to rescind 67 Pa Code 453, Distribution of Highway Maintenance Funds. Chapter 453 is the promulgation of the standards and methodology for pavement distress data collection.			
(9) State the statutory authority for the regulation and any relevant state or federal court decisions. The statutory authority for these regulations is Sections 6103 and 9104 of the Vehicle Code, Act of June 17, 1976, P.L. 162, No. 81, <u>as amended</u> by the Act of April 17, 1997, P.L. 6, No. 3 (75 Pa.C.S. §§6103 and 9104).			
(10) Is the regulation mandated by any federal or state law or court, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action. No, these regulations are not mandated by federal or state law or court order.			

(11) Explain the compelling public interest that justifies this regulation. What is the problem it addresses?

The public interest that justifies these regulations is that as a consequence of the Act of April 17, 1997, P.L.6, No. 3 (75 Pa.C.S. §9104) subsequent amendment of the standards and methodology for data collection for determining the Relative Quality Index may now be established by publication of a notice in the Pennsylvania Bulletin. Elimination of these regulations is consistent with Executive Order 1996-1, Regulatory Review and Promulgation, by rescinding unnecessary regulations.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

The public health, safety, and general welfare risks associated with non-regulation relate to the coordinated effort to provide safe, efficient roadways throughout this Commonwealth. Although 67 Pa. Code 453, is being rescinded, subsequent amendment of the standards and methodology for data collection will be promulgated as a notice under the auspices of Section 9104 of the Vehicle Code.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

These regulations will benefit the Department, its maintenance engineering districts and, ultimately, the general motoring public of this Commonwealth by making it easier to effect changes to the standards and methodology for data collection by publication of a notice in the Pennsylvania Bulletin as opposed to the lengthy rulemaking process.

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

The rescission of these regulations will not adversely affect the Department's maintenance engineering districts nor the general motoring public since the formula for actual distribution of maintenance funds will continue to be provided in 75 Pa. C.S. Chapter 91. Further, any subsequent changes to determine the standards and methodology for data collection will be accomplished by a two-step notice process. The first notice will inform the public of the Department's desired changes for data collection and solicit comment regarding the same. The second notice will be published, after reviewing all comments, and will announce the standards and methodology that the Department will employ in subsequent years.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

The rescission of these regulations affects the Department, its engineering maintenance districts, and the general motoring public. Although these regulations are being rescinded, the rules for distribution of highway maintenance funds will continue to exist in the Vehicle Code (75 Pa.C.S. §101, et seq.).

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

These regulations are being rescinded as a consequence of the enactment of the Act of April 17, 1997, P.L. 6, No. 3 (75 Pa.C.S. §9104), which provides that the Department may determine, in subsequent years, the standards and methodology for data collection by publication of a notice in the Pennsylvania Bulletin. Accordingly, the Department has not solicited public participation in the development of a regulatory package to rescind these regulations. The Department, however, pursued the rescinding these regulations with a rulemaking process, publishing the rescission as a proposed rulemaking and providing a thirty day public comment period. Further, these regulations will be forwarded for review and comment to the House and Senate Transportation Committees and the Independent Regulatory Review Committee (IRRC).

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

These regulations will not result in any costs or savings to the general motoring public.

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including and legal, accounting or consulting procedures which may be required.

These regulations will not occasion any costs or savings to local government.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including and legal, accounting or consulting procedures which may be required.

These regulations will not occasion any costs to state government. The Department of Transportation may realize some savings in the man hours required to effect changes to the standards and methodology for data collection since the same can now be accomplished through publication of a notice in the Pennsylvania Bulletin as opposed to the rulemaking process.

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local governments, and state government for the current year and five subsequent years.

There are no costs associated with implementation of these regulations upon the general motoring public, local governments or state government since these regulations will rescind the existing Chapter 453. Distributing highway maintenance funds will continue to be regulated by the provisions of Chapter 91 of the Vehicle Code (75 Pa.C.S. §§9101 - 9106).



	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	None					
Local Government	None					
State Government	Not Readily Measurable					
Total Savings						
COSTS:						
Regulated Community	None					
Local Government	None					
State Government	None					
Total Costs						
REVENUE LOSSES:						
Regulated Community	None					
Local Government	None					
State Government	None					
Total Revenue Losses						
<p>(20a) Explain how the cost estimates listed above were derived. There are no cost estimates derived because these regulations are a rescission of the existing 67 Pa. Code Chapter 453, Distribution of Highway Maintenance Funds and there are no costs associated with implementation of the same.</p>						
<p>(20b) Provide the past three year expenditure history for programs affected by this regulation. There is no expenditure history since no programs are affected by these regulations which rescind 67 Pa. Code Chapter 453, Distribution of Highway Maintenance Funds</p>						
Program	FY-3	FY-2	FY-1	CurrentFY		
Not Applicable						

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

The benefit of these regulations outweigh costs since these regulations impose no costs.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

There were no nonregulatory alternatives considered since rescission of these regulations requires a rulemaking process. Changes to the standards and methodology, previously defined in Chapter 453, will be announced and comments solicited through notice in the Pennsylvania Bulletin.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide reasons for their dismissal.

There were no alternative regulatory schemes considered since the only way to effect the desired rescission would required proposed rulemaking with public comment.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

No, these regulations are not more stringent than Federal Standards since there are no Federal Standards.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

These regulations will not put Pennsylvania at a competitive disadvantage with other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.


These regulations will not affect existing or proposed regulations of the promulgating agency or other state agencies.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No public hearings or informational meetings will be scheduled. These regulations, however, will be forwarded to the House and Senate Transportation Committees and will be considered at a public meeting of the Independent Regulatory Review Commission.

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

These regulations will not change any existing reporting, record keeping or other paperwork requirements.



(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small business, and farmers.

Neither these regulations, nor this chapter at the time of initial promulgation, were developed to elevate the needs of any affected maintenance districts over others but rather to assure the distribution of highway maintenance funds in such a manner as to provide a reasonable balance of highway quality and conditions among the counties.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

These regulations will become effective immediately upon publication of the Final Adoption Order in the Pennsylvania Bulletin.

(31) Provide the schedule for continual review of the regulation.

The data collection process will be monitored by the Department for its effectiveness and changes incorporated consistent with the provisions of 75 Pa. C.S. §9104, when necessary.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE
LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

2068

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality.
Attorney General

By: _____
(Deputy Attorney General)

Date of Approval

Check if applicable
Copy not approved. Objections attached.

Copy of below is hereby certified to be true and
correct copy of a document issued, prescribed or
promulgated by:

Department
of
Transportation
(Agency)

DOCUMENT/FISCAL NOTE NO. #18-352
DATE OF ADOPTION _____

BY [Signature]
Secretary
(Executive Officer, Chairman or Secretary)

Copy below is hereby approved as to
form and legality. Executive or
Independent Agencies.

BY [Signature]

AUG 24 2001
(Date of Approval)

(Deputy General Counsel)
(Strike Inapplicable Title)

Check if applicable. No attorney
General Approval or Objection within
30 days after submission.

FINAL ADOPTION

**DEPARTMENT OF TRANSPORTATION
BUREAU OF MAINTENANCE & OPERATIONS
TITLE 67. TRANSPORTATION
PART I. DEPARTMENT OF TRANSPORTATION
SUBPART B. NON-VEHICLE CODE PROVISIONS
ARTICLE III. HIGHWAY**

CHAPTER 453. DISTRIBUTION OF HIGHWAY MAINTENANCE FUNDS

FINAL ADOPTION AFTER RULEMAKING

Title 67. Transportation

Part I. Department of Transportation

Subpart B. Non-Vehicle Code Provisions

Article III. Highway

Chapter 453. Distribution of Highway Maintenance Funds

Final Adoption After Rulemaking

The Department of Transportation (Department), Bureau of Maintenance and Operations, by this Order adopts amendments to 67 Pa. Code rescinding Chapter 453, (relating to distribution of highway maintenance funds) as set forth in Annex A.

Purpose of Final-Form Rulemaking

The purpose of this final-form rulemaking is to rescind 67 Pa. Code Chapter 453 (Distribution of Highway Maintenance Funds). Chapter 453, is no longer needed because Section 9104 of the Vehicle Code, Act of June 17, 1976, P.L. 162, No. 81, as amended by the Act of April 17, 1997, P.L. 6, No.3, (75 Pa. C.S. § 9104) no longer requires the promulgation of standards and methodology for data collection in the form of regulations. Changes to the standards and methodology for data collection are now to be published as a notice in the *Pennsylvania Bulletin*.

Hereafter, the Department of Transportation will publish any changes to the standards and methodology for data collection in the

Pennsylvania Bulletin. A notice will first be published announcing that change(s) to the standards and methodology of data collection is being considered, inviting questions and comments from interested persons and the public. After a sufficient period for questions or comments concerning the proposed change(s), a subsequent notice of the change(s) to the standards and methodology for data collection will be published in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), the Department submitted a copy of the notice of proposed rulemaking, published at 29 Pa.B. 5098 (October 2, 1999), to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Transportation Committees. In addition to these final-form regulations, the Department provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

No comments were received from the public, IRRC or the Committees. Under section 5.1(d) of the Regulatory Review Act (71 P.S. § 745.5a(d)), these final form regulations were (deemed) approved by the House and Senate Committees on _____.

Under section 5.1(e) of the Regulatory Review Act, the IRRC met on _____, and approved these final-form regulations [the

final-form regulations were deemed approved by the Commission on _____].

Comments and Responses

As there were no comments received from the public, IRRC or the Committees, the final text of these regulations contains no additions, deletions, or other modifications to the rulemaking as previously proposed at 29 Pa. B. 5098.

Statutory Authority

These regulations are amended under the authority contained in Sections 6103 and 9104 of the Vehicle Code, Act of June 17, 1976, P.L. 162, No.81, as amended by the Act of April 17, 1997, P.L. 6 No.3 (75 Pa. CS. § 6103 and 9104).

Persons And Entities Affected

These regulations affect all Department maintenance districts within the Commonwealth and the general motoring public which has occasion to use the state roadway network.

Fiscal Impact: Paperwork Requirements

These regulations will not impose any increased costs on private persons, state or local governments. These regulations will not occasion the development of any additional reports or other paperwork requirements.

Effective Date

This rescission will be effective on the date of final-form publication in the *Pennsylvania Bulletin*.

Sunset Date

As this rulemaking effects a rescission of a regulation, no sunset date is established.

Contact Person

Individuals who seek information regarding this final-form rulemaking may contact J. Michael Long, P.E., Chief, Roadway Inventory and Testing Section, Roadway Management Division, Bureau of Maintenance and Operations, BOMO Annex Building, 907 Elmerton Avenue, Harrisburg, Pennsylvania 17110, (717) 705-8920.

Order

The Department of Transportation orders that:

- (A) The regulations of the Department of Transportation, 67 Pa. Code , Chapter 453, are amended by rescinding 67 Pa. Code, Chapter 453 as set forth in Annex A.
- (B) The Secretary of the Department of transportation shall submit this Order and Annex A hereto the Office of General Counsel and the Office of Attorney General for approval as to legality and form, as required by law.

(C) The Secretary shall certify this Order and Annex A and deposit the same with the Legislative Reference Bureau, as required by law.

(D) This Order shall take effect upon publication in the *Pennsylvania Bulletin*.

Bradley L. Mallory
Secretary

ANNEX A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

SUBPART B. VEHICLE CODE PROVISIONS

ARTICLE III. HIGHWAY

Chapter 453. (Reserved)

§ 453.1-453.4 (Reserved).

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION
www.dot.state.pa.us



Office of Chief Counsel
P.O. Box 8212
Harrisburg, Pennsylvania 17105-8212
(717) 787-5079

October 5, 2001

Robert E. Nyce
Executive Director
14th Floor Harristown 2
333 Market Street
Harrisburg, PA 17101

**Re: Regulation #18-352: 67 Pa. Code, Chapter 453 —
Distribution of Highway Maintenance Funds**

Dear Mr. Nyce:

Enclosed please find a copy of the Face Sheet, Preamble, Annex A and Regulatory Analysis Form for Amendments to 67 Pa. Code, Chapter 453, Distribution of Highway Maintenance Funds, which the Department of Transportation intends to adopt in final form in accordance with the provisions of the Commonwealth Documents Law, Act of July 31, 1968, P.L. 769, 45 P.S. § 1201 *et seq.*, and the Regulatory Review Act, 71 P.S. § 745.1 *et seq.*

Copies of these materials were also delivered today to the majority and minority chairpersons of the Pennsylvania House and Senate Transportation Committees.

The Department of Transportation will provide you with any assistance you require to facilitate a thorough review of this regulation. Thank you for your attention.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stephen F. J. Martin", written over a horizontal line.

Stephen F. J. Martin
Regulatory Counsel

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 18-352
SUBJECT: Distribution of Highway Maintenance Funds
AGENCY: DEPARTMENT OF TRANSPORTATION

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
10/5/01	<i>Kimberly J. Varless</i>	HOUSE COMMITTEE ON TRANSPORTATION
10/5/01	<i>Marilyn [unclear]</i>	
10/5	<i>M. K.</i>	SENATE COMMITTEE ON TRANSPORTATION
10/5	<i>P. Gilroy</i>	
10/5/01	<i>Diana Pagan</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
		LEGISLATIVE REFERENCE BUREAU

October 3, 2001