PERM 33a

Application for the use of Highways/NYSDOT Property

Multi-County Speed Contest on Public Highways or Single-County Speed Contest on State Highways

• A PERM 33a is required when a Multi-County Speed Contest, race, or similar event is held on any public highway. An event that takes place in one county within New York State and the remainder is in another state or country is considered “multi-county” for the purposes of this permit.

• A PERM 33a is required when a Single-County Speed Contest, race, or similar event is held and at least a portion of the course is on a State Highway, and the local authorities are not regulating the event.

• A PERM 33a is not required for events that take place entirely within the five boroughs of New York City.
INSTRUCTIONS FOR COMPLETING THE SPECIAL USE PERMIT (PERM 33a)

• Identify the name, date, time, and type of event.

• Identify all Cities, Villages, Towns, and Counties where the event will be held.

• Specify the location of the event by State Route numbers/highway names, street names, etc., by municipality. If the event includes facilities other than highways/streets, describe the location and names of the facilities (parks, trails, private property, etc.) that will be used.

• State the Permit Applicant’s name and address. The event organizer is always the “Applicant”; the applicant may be an individual, municipality, organization, or group. The Applicant assumes full responsibility for the event even if other organizations will be involved. The Permit will be issued to the Applicant, who will be responsible for complying with all of the terms of the Permit.

• Identify an Authorized Representative who will be the contact person.

• Provide information listed on Page 2 of the Application.

• Acknowledge permit terms and conditions; provide Applicant/Authorized Representative’s signature and date.

• Submit non-refundable Application Fee of $25.00. (This fee is waived if the Applicant is a not-for-profit group.) Please make check payable to NYSDOT.

• Please submit the original completed permit application to the proper address listed below a minimum of three months prior to the event date. Keep a copy for your records. Upon approval, one copy of the application and an Approval Form will be returned to you that will serve as the Special Use Permit.

Multi-County Speed Contests

New York State Department of Transportation
Traffic Operations Bureau
50 Wolf Road – POD 53
Albany, NY 12232

Please direct any questions to:
Kathleen Zubrycki
Office of Traffic Safety & Mobility
e-mail: kathleen.zubrycki@dot.ny.gov
phone: (518) 457-6188
fax: (518) 457-4203

Single-County Speed Contests

New York State Department of Transportation
Regional Traffic Engineer
NYSDOT Region ___

PERM 33a (9/2013)
Special Use Event:

Name of Event

Date(s)  Time(s)  # of Participants

Type of Special Use Event:
1. ☐ Multi-County Speed Contest on Public Highways:
2. ☐ Single-County Speed Contest on State Highways or NYSDOT Property:

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<th>Location: (specify highways by route number and/or street name)</th>
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Applicant Information:

Applicant (Individual, city/town/village, organization)

Authorized Representative (if different from Applicant)

Mailing Address

Telephone Number (including area code)

City, State, Zip Code

Cell Phone Number (including area code)

Officiating Organization

Email Address

Website Address (if applicable)
The following information must be submitted at the time of application:

- **Official Map, Event Brochure, and Event Application**
  The applicant shall provide an official map, event brochure and event application form (if applicable).

- **Operation and Safety Plan**
  The applicant shall provide an Operation and Safety Plan which includes the applicable items from the Checklist on pages 5 and 6; attach the completed checklist.

- **Waiver**
  The applicant shall provide a copy of the waiver that will be signed by event participants in accordance with Item 4 of *Responsibilities of Applicant* A sample waiver form is provided.

- **$25 Application Fee (this fee is waived if the Applicant is a not-for-profit group)**
  Please make check payable to NYSDOT.

The following information must be submitted no less than two weeks prior to the event date:

- **Insurance Certificates (must be in Applicant’s name)**
  The Applicant shall provide documentation of required insurance, including Workers’ Compensation and Disability Insurance; see Item 7 of *Responsibilities of Applicant* for required insurance types and limits.

- **Municipal Approvals for Single-County Speed Contests (DOT will acquire these approvals for Multi-county Speed Contests provided the application is received at least six weeks before the event date.)**
  The Applicant shall provide written proof from each municipality (County, Town, City, and Village) through which the event passes indicating that the Municipality has no objection to the event taking place. This written proof may take the form of a letter, resolution, email, or other form. The Applicant shall also provide the name of a contact person for each municipality.

**Acknowledgment.** On behalf of the Applicant, I hereby request a Special Use Permit, and do acknowledge and agree to the Responsibilities of Applicant and obligations set forth in this permit and warrant compliance therewith. The attached documents are also made a part hereof and attached hereto:

- Application received by:

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  **Applicant’s Representative’s Signature**

  **NYSDOT Representative’s Signature**

  **Date**

  **Date Received by NYSDOT**
OPERATION AND SAFETY PLAN CHECKLIST

Please supply the following information or note as “Not Applicable.”

(For a single-county event, the Event Map must show the entire course, but all other checklist elements only apply to the portions of the event occurring on State highways. For a multi-county event, provide information for the entire event.)

☐ Event Map
- show start and finish lines
- show direction of event travel
- show all intersections, railroad crossings, and jurisdictional boundaries
- show all facilities being used by the event (roads, parks, schools, parking lots, etc.)

☐ Description of Event
- identify event starting and ending times and locations
- provide race course description listing each road, park, trail, etc., in the order which an event participant will encounter them
- describe sequence of event activities, including setup and cleanup
- describe any road/lane/shoulder/sidewalk closings and times and method of closure (e.g., signs, cones, barricades)
- describe all event activities where participants will violate the normal “rules of the road” and all locations where traffic will be required to stop where no stop is normally required

☐ Locations requiring traffic control for event
- list intersections where the existing type of traffic control (e.g., signal, stop, yield, no control) will be changed during the event and describe how normal traffic will be directed (e.g., police officer)
- provide sketches of all locations requiring additional traffic control during event
- show types and locations of all traffic control devices (e.g., traffic signals, signs, cones, striping, barricades), both existing and proposed
- show types and locations of all event personnel (e.g., police officers, volunteers)
- show path of event participants

☐ Detours
- provide map of detour, show detour sign/police locations and any existing signs to be covered
- provide drawing of detour sign(s) showing text
- provide sign dimensions, color, size of text, type of sign material, and posting method

☐ List of Railroad Grade Crossings
- indicate whether grade crossing is active or inactive
- list existing traffic control at all active grade crossings (e.g., crossbucks, lights, gates, YIELD sign, STOP sign)
- list traffic control for event at all active grade crossings (e.g., police, RR flagger)
- indicate whether railroad has been contacted

☐ Pre-Event Public Notification
- list locations for signs or show on a map
- provide drawing of signs showing text
- provide sign dimensions, color, size of text, type of sign material, and posting method
- list locations or show on a map all Changeable Message Signs, provide pre-event text
- specify what day signs will be placed and when they will be removed
- describe any other type of notification (e.g., mailings, brochure, press release) being provided to the public
OPERATION AND SAFETY PLAN CHECKLIST

☐ **Banners**
- Indicate if there will be any banners (roadside or overhead), type, and locations.

☐ **Coordination**
- describe any coordination with state/local police
- describe any coordination with state/local highway agencies
- describe any coordination with municipalities
- describe any coordination with other entities (e.g. railroads, park agencies, private property owners whose property will be used for the event)

☐ **Event Day Communications**
- describe communications system used by event personnel, marshals, volunteers, police, emergency personnel

☐ **Emergency Services**
- describe how emergency services will be provided during the event for event participants and spectators
- describe how emergency vehicles will be able to use/cross the event course if necessary for non-event related circumstances

☐ **Spectator Control**
- indicate whether any special measures are being taken to control spectators (e.g., fencing, highway crossings)

☐ **Pavement Markings**
- provide a sketch of each location where temporary pavement markings will be placed
- describe material being used, and how and when it will be placed and removed

☐ **Event Day Signing – for highway users**
- list locations for signs or show on a map, note any existing signs to be covered
- provide drawing of sign(s) showing text
- provide sign dimensions, color, size of text, type of sign material, and posting method
- list locations or show on a map all Changeable Message Signs, provide text

☐ **Event Day Signing – for event participants**
- list locations for signs or show on a map
- note types of signs being used (e.g., advance turn, mile markers, feed zones/water stations)
- provide drawing of signs showing text
- provide sign dimensions, color, size of text, type of sign material, and posting method

☐ **Event Support Vehicles**
- describe the movements of any vehicles used in the event (e.g., lead & trail, sweep, sag)
- describe how each vehicle will convey its message (e.g., flashers, headlights, beacons, signs), as appropriate
SAMPLE WAIVER

Assumption of Risk and Waiver/Release
For
Injuries, Damages and Claims
to Participate in a Speed Contest

Name of the Speed Contest: ____________________________________________

I hereby acknowledge that participation in this speed contest constitutes an extreme test of my physical and mental abilities and carries with it the potential for death, serious injury and/or property loss. I hereby expressly assume all risk of injury and damage and release the State of New York, New York State Department of Transportation and any municipality through which this event passes, from all liability and claims of whatever nature or cause which may occur as a result of my participation in this speed contest.

I further acknowledge that “No person or entity shall have the right to bring an action against the State or municipality or any person employed by the State or municipality who was acting within the scope of his authority, for damages resulting from or in connection with any such race, contest or exhibitions.”

A copy of this waiver shall be retained by the applicant and provided to NYSDOT upon request.

Printed Name of Participant/Contestant ________________________________ Signature of Participant/Contestant ________________________________

Address __________________________________________________________ Date ________________________________

If Participant/contestant is a minor (less than 18 years of age), a parent or legal guardian must also sign:

Printed Name of Parent/Legal Guardian ________________________________ Signature of Parent/Legal Guardian ________________________________

Relationship to Participant/Contestant ________________________________ Date ________________________________
Responsibilities of Applicant

1. Limitations on Use. The specific site identified in this permit, and only that portion identified, will be available for use by Applicant only for the purpose stated in this permit and only on the date(s) and for the duration designated in this permit. The authorization herein shall be only for the actual duration of the event.

2. Conditions of Use. NYSDOT makes no affirmation that the state-owned site used for the event has been designed, constructed, or maintained for the purpose of the conduct of the event. The Applicant assumes full responsibility for planning and conducting a safe and orderly event that does not expose participants or the public to any unreasonable hazards and that involves a minimal disruption of the normal uses of the state and local highway systems. It shall be the sole obligation of the Applicant to determine whether the site is suitable for the purpose of safely conducting the event. The Applicant assumes all responsibility for assuring that the use of the highway/property conforms to applicable requirements of law, including, but not limited to those set forth herein.

3. Operation and Safety Plan. The Applicant assumes all responsibility for the set-up, conduct and break-down of the event. The Applicant assumes all responsibility for the control of the event site, and warrants that the site has been inspected, and that any perceived defects have been or shall be reported to NYSDOT and that adequate provision has been or shall be taken to mitigate and/or separate event participants from these perceived hazards.

   The Operation and Safety Plan must detail how the Applicant intends to (1) promote safety and (2) minimize the disruption of traffic. To the extent of any closure on the state highway or the disruption of the movement of traffic proceeding along (e.g. lane and shoulder closures), entering, or crossing a state highway for a period more than ten minutes, the Applicant shall provide and maintain a signed detour or police officers to direct traffic.

The Applicant shall consult with and coordinate the event with state and/or local police to determine such action as may be necessary to protect the public safety, security, or convenience, and incorporate all recommendations into the Operation and Safety Plan. Notwithstanding any other provision of law to the contrary, no person or entity shall have the right to bring an action against the state or municipality or any person employed by the state or municipality who was acting within the scope of their authority for damages resulting from or in connection with the event(s). The Applicant shall ensure that all participants shall obey any lawful order or direction (1) of any police officer that deviates from the Operation and Safety Plan before, during and after the event(s) (2) of any police officer, flag person or other person duly empowered to regulate traffic during an emergency (3) given by a federal, state, county or city official or any person acting as part of the civil defense forces.

4. Additional Conditions. The race shall be fully and efficiently patrolled for its entire distance for the entire duration of the race. Night racing shall be considered only when the Operation and Safety Plan includes specific provisions for night racing.

The Applicant assumes all risks connected with the conduct of the race authorized herein and agrees that, prior to the commencement of the race, they shall obtain the signature of each participantcontestant on a statement, in a form approved by NYSDOT, by which, among other things, each participantcontestant assumes all risks connected with the race and acknowledges
Responsibilities of Applicant

such. A sample waiver is attached to this package; the waiver used by the Applicant may be in a different format, but must use similar language.

The Applicant shall reimburse the State for all costs and expenses incurred in connection with the race authorized herein. A statement of such costs and expenses will be submitted to the Applicant within 30 days after the completion of the race. The Applicant shall make payment of this amount, if any, within 60 days after the completion of the race.

NYSDOT is not obligated to provide any personnel to assist in the conduct of the race. NYSDOT will provide normal administrative assistance prior to the event in order to facilitate the conduct of the event in a safe and orderly manner.

5. Rail Grade Crossings. The Applicant is responsible for ensuring the safety of event participants at all railroad grade crossings. The Operation and Safety Plan shall address rail crossing operations. For grade crossings where a train may cross during the event, the applicant must propose a safety plan.

6. Assumption of Risk. Use of the permitted site shall be in accord with the general authority of the State (where applicable) and applicable New York State Vehicle & Traffic Law sections so that although the participants are exempted from compliance with the usual traffic laws as detailed in the Operation and Safety Plan, they must exercise reasonable care.

7. Insurance Requirements. The Applicant shall provide NYSDOT with proof of insurance prior to the installation of any temporary traffic control devices or the commencement of the event, i.e. a certificate of insurance is required to maintain and provide proof that it has, in full force and effect, the following insurance coverages:

(a) Workers’ Compensation and Disability Insurance. As required by State Finance Law §142, the Applicant shall maintain in force workers’ compensation insurance for all employees. The Applicant shall also maintain disability insurance as required by the Disability Benefits Law of the State of New York.

(b) Commercial General Liability Insurance. The Applicant shall maintain an occurrence form commercial general liability policy or policies insuring against liability arising from premises (including loss of use thereof), personal injury or death, advertising injury, liability insured under an insured contract (including the tort liability of another assumed in a business contract) occurring on or in any way related to the premises or occasioned by reason of the operations of the Applicant. Such coverage shall be written on an ISO occurrence form CG 00 01 12 07 (or a form that provides equivalent coverage) in an amount of not less than ONE MILLION DOLLARS ($1,000,000.00) per occurrence and not less than TWO MILLION DOLLARS ($2,000,000.00) aggregate. This insurance must be endorsed to provide coverage to “The State of New York/New York State Department of Transportation, any municipality in which the event is conducted, and any governmental entity whose facilities are affected by the event, or any of their employees or agents working for or on the event,” using ISO form CG 20 10 07 04 or a form that provides equivalent coverage.
Responsibilities of Applicant

(c) **Automobile Insurance** *(applicable where automobiles or other vehicles will be used in relation to the event).* The Applicant shall maintain a commercial or other automobile policy or policies insuring against liability for bodily injury, death, or damage to property and other mandatory coverages, relating to the use, operation, loading or unloading of any of Applicant’s automobiles (including owned, hired and non-owned vehicles) on and around the site/event. Coverage shall be in an amount of not less than ONE MILLION DOLLARS ($1,000,000.00) each accident.

(d) **Umbrella or Excess Liability Insurance.** The Applicant shall maintain an occurrence form umbrella liability policy or policies insuring against liability arising from premises (including loss of use thereof), operations, personal injury and advertising injury, and liability insured under an insured contract (including the tort liability of another assumed in a business contract) occurring on or in any way related to the premises or occasioned by reason of the operations of the Applicant as described above. Such coverage shall be written on an ISO occurrence form CU 00 01 12 07 (or a form that provides equivalent coverage). In the event that umbrella coverage is unavailable, equivalent excess coverage may be substituted. The minimum required limits for the umbrella/excess coverage shall be sufficient to provide a total of not less than FIVE MILLION DOLLARS ($5,000,000.00) per occurrence/aggregate.

8. **Indemnification:** In addition to the protection afforded the State by the insurance provision herein, NYSDOT shall not be liable for any damage or injury to the Applicant, employees, event organizers and volunteers, or participants, or any other person, or to any property, occurring on the site covered by this permit or any part thereof associated in any way with Applicant’s use of the site. To the fullest extent permitted by law, the Applicant agrees to defend, indemnify and hold harmless the State of New York, NYSDOT, and their agents from and against all claims, damages, losses and expenses, including but not limited to attorneys’ fees, arising out of any claim for personal injuries, property damage or wrongful death associated in any way with the Applicant’s, or participants’ use of the permitted site(s), or in any way related to the event, no matter how caused.

9. **Termination of the Permit.** NYSDOT shall have the right, in its sole discretion, at any time to terminate this permit, or any portion thereof, should it be necessary due to operations or other reasonable need of NYSDOT, by giving written notice of termination of the permit. Any termination by NYSDOT shall in no way constitute or be deemed a breach of this Permit and no liability shall be incurred by or arise against NYSDOT, its agents and employees for loss of profits or any other damages.

10. **Applicant’s Use of the Highway/Property.** The Applicant shall exercise due care in its use of the site and shall upon the expiration, termination or cancellation of the issued permit, surrender the site in as good a condition as on the effective date of this permit, ordinary wear and tear excepted. **The Applicant shall designate a representative to conduct both a pre-event and post-event field review of the event course with the NYSDOT Resident Engineer(s) to determine what damage may or may not have resulted from the event.** The Resident Engineer is given the authority to determine if any of the post-event damage is required to be repaired.
Responsibilities of Applicant

11. Other Authorities, Rules, etc. The Applicant is specifically subject to the authority of all other applicable laws. For most special events, the Applicant must obtain approval from other authorities. The Applicant agrees to abide by and conform to such other guidelines, permit, ordinance, rule and/or regulation as may from time to time be established by NYSDOT and other authorities and shall be responsible for coordinating the event with such other authorities.

12. Agency’s Representative. The Commissioner of the NYS Department of Transportation, his/her designee, shall be, and hereby are, authorized to act for and on behalf of NYSDOT.

13. Promotional Materials. Any promotional materials shall be consistent with the provisions of this permit. NYSDOT shall in no way be represented to be a sponsor or organizer of the event. The Applicant represents that it has permission to reproduce any such materials, and will defend and indemnify NYSDOT for any damages NYSDOT may incur for the infringement of any third-party proprietary rights because of the use of such materials.

   (a) The Permit shall be deemed executory only to the extent of money available to NYSDOT for the performance of the terms hereof and no liability on account thereof shall be incurred by NYSDOT beyond moneys available for the purpose thereof.
   (b) The Permittee agrees to notify the Agency’s representative about any hazardous or unsafe conditions and about any accidents that occur during the event immediately upon the discovery of such condition or accident.
   (c) The Permittee agrees to abide by all federal, state and local laws, ordinances, rules, and regulations in its use of the site hereunder.

15. Site Care and Restoration (if necessary and conducted by NYSDOT). An Undertaking, a bond or a certified check in an amount designated by the Department of Transportation may be required before a permit is issued, to guarantee restoration of the site to its original condition. If the Department is obliged to restore the site to its original condition, the costs to the Department will be deducted from the amount of the Permittee’s guarantee deposit at the conclusion of the work. The Permittee agrees to be responsible for any costs in excess of the Bond/guarantee deposit on file and will be billed directly therefore. If there is no Undertaking, bond, or certified check, a statement of such costs and expenses will be submitted to the Permittee within 30 days after the completion of the event. The Permittee shall make payment of this amount, if any, within 60 days after the completion of the event.

16. Costs Incurred by Issuance of this Permit. All costs beyond the limits of liability insurance, surety deposits, etc. are the responsibility of the Applicant. The State shall be held free of any costs incurred by the issuance of this permit, direct or indirect.

17. Legal. The privilege granted by the permit does not authorize any infringement of federal, state or local laws or regulations, is limited to the extent of the authority of NYSDOT and is transferable and assignable only with the written consent of the Commissioner of Transportation. The Commissioner reserves the right to modify fees and to revoke or annul the permit at any time, at his/her discretion without a hearing or the necessity of showing cause.