



New Mexico Department of Transportation

NM REFEREE TESTING POLICY

1. The State Materials Bureau will have the responsibility for maintaining and administering this procedure in accordance with Section 423.3.7 and 424.3.7.

For any test incorporated into the pay factor, if a dispute exists the Project Manager and Contractor will investigate to determine why and make corrections if possible. If discrepancy cannot be resolved, then either party may invoke Referee Testing.

Note: *Referee testing shall not be invoked on their own testing. Department shall not invoke Referee Testing on Department's test results (they can be verified internally) and similarly, Contractor shall not invoke Referee Testing on their own test results. If Department does not agree with the Contractor's test results, then Department can invoke Referee Testing to challenge Contractor's test result and similarly, if Contractor does not agree with the Department's test results, then Contractor can invoke Referee Testing to challenge Department's test results.*

2. The purpose of this policy is to establish and maintain an objective method to resolve HMA/WMA testing disputes between the Contractor and the Department.
3. This policy establishes a means to replace disputed test results used to determine the QLA/Non-QLA pay factor on Department Projects. If on-site efforts and evaluations fail to discern the cause of anomalous or disputed test results for Air Voids, VMA, Asphalt Content, or Mat Density, this policy can be invoked by either the Department or the Contractor. If the Air Voids, VMA, or Asphalt Content, is disputed then all Volumetric tests will be performed on the Referee sample by the Referee Testing Lab. If the Mat Density is disputed, then only the Mat Density of the Referee core will be determined.
4. This program is intended to be completely anonymous to both the Contractor and to the Department's Project personnel. Consequently, no specific information relative to the location or Project from which the sample was obtained will be available to the Referee Testing Lab chosen. Only the State Materials Bureau will know which Referee Testing Lab performs the required tests.

5. If Air Voids, VMA or Asphalt Content is disputed, the test results determined by the Referee Testing Lab for all of these properties will be used in place of the original results as the final entries for these tests. If the Mat Density is disputed, just the test result for the Mat Density from the Referee Lab will be used in place of the original Mat Density result in question. The Referee Testing Lab test results will stand as the final entries for the subject samples. All other data that was not subjected to dispute resolution will be retained in the QLA/Non-QLA evaluation.
6. The State Asphalt Engineer will maintain a list of AASHTO re:source Certified Laboratories that have no involvement or interest in the specific Project.
7. Each Referee Test Sample will be obtained as a part of the standard sampling procedure. The normal randomly selected sample will be obtained as a part of the normal sampling requirements for the Contractor and the Department. The referee sample will be identical in size and method of sampling to the standard sample and will be taken directly in front of the standard random sample (in the direction the Paver is moving) at a distance of 2 +/- 0.5 feet.
8. In the case of Mat Density cores used for determining the in-place density, one (1) additional core will be obtained for each of the specimens in the Department's Random Sampling Program. The PM may require the Contractor to obtain one (1) additional core for each of the specimens in the Contractors Random Sampling Program for Referee Testing as well. The location of Referee Core shall be as close as possible, but not more than 3 inches apart from the original core hole either in front of or behind (in the direction of the paver travel) the original core. Adjacent cores to the right or left will not be obtained; The Contractor shall retain their random Mat Density cores until the PM provides approval to discard the samples.
9. When the Referee Lab Testing is invoked by either the Department or Contractor, it shall be done in writing to the Project Manager or Contractors within ten (10) Calendar Days after receiving the test results from the other party. The correspondence shall include as a minimum:
 - Project/Control Number
 - Material Type
 - SML Mix Design No.
 - Date Sampled
 - Date Tested
 - Station Sampled
 - Location
 - Reason for disputing the other party's test results.

10. At a minimum, the correspondence invoking the Referee Testing will be sent to the Project Manager, the Assistant District Construction Engineer, the Contractors Superintendent/Project Manager, the State Asphalt Engineer and the District Lab Supervisor.
11. The Project Manager will deliver the Referee Test Sample to the District Lab; the District Lab will deliver the sample to the State Asphalt Engineer with NMDOT Referee Sample Materials Identification Sheet and a Set of Ignition Oven Calibration Samples. The Build Sheet shall be included with the First Referee Testing Sample for Volumetric Analysis on the Project. Submit the corresponding MT-1 Reports for the Tests invoked and send a copy of all the supporting and informational documents thru email to the State Asphalt Engineer. NMDOT Referee Sample Materials Identification Sheet is attached to the NMDOT Referee Testing Policy.
12. For the Binder Ignition Calibration Samples for the Referee Tests refer to the NMDOT Procedure for Determination of Ignition Oven Calibration Factors.
13. Upon receipt of the Referee Test Sample(s), the State Asphalt Engineer will ensure the safety, integrity and chain of custody of the sample.
14. The State Asphalt Engineer will select a Referee Testing Lab from the list of AASHTO re:source Certified Testing Laboratories including the State Materials Bureau Laboratory, which is maintained by the Quality Control Engineer. The Department Project personnel and Contractor personnel will have no knowledge as to which lab has been selected for the Referee Testing.
15. The sample(s) submitted to the Referee Testing Lab will have no identification or other markings which might provide any information related to the source or location of the material or the Project for which the testing is being performed. Only that information required by the Referee Testing Laboratory to complete the test will be provided to the laboratory.
16. Test results and all worksheets by the Referee Testing laboratory must be reported in writing to the State Asphalt Engineer within five (5) Calendar Days after the Referee Test Samples are delivered.
17. The State Asphalt Engineer will electronically transmit the results to the Project Manager, Assistant District Construction Engineer, and the District Laboratory Supervisor. The Project Manager shall immediately transmit this information to the Contractor.

18. The Project Manager will notify the Contractor's Project Superintendent of what the test results are. Additionally, the Referee test result(s) will be entered into the QLA/Non-QLA spreadsheet replacing the disputed test results and saved under a separate file name so that the original QLA/Non-QLA file will not be lost.
19. It will be determined whether the Referee Test results increased or decreased the combined pay factor. If the Referee Test results increase the pay factor, the Department will bear the cost of the Referee Testing. If the Referee Test results reduce the pay factor or leave the pay factor the same, the Contractor will pay the cost of the Referee Testing in accordance with Table 1: "Costs of Referee Testing". If the Contractor is responsible for the cost of the Referee Testing, a negative Change Order will be processed reflecting these charges.

Table 1: "Costs of Referee Testing"

<u>Test</u>	<u>Price</u>
Air Voids/VMA/ Asphalt Content	\$1250
Mat Density	\$50

20. The results of the Referee Test Sample shall be incorporated immediately after the referee test samples have been reported. The Project Manager will not wait until the end of the Lot to enter the test results to determine whether the combined test results validate, as determined in accordance with Section 901.
21. If Referee Testing is not invoked within ten (10) Calendar Days of receiving test results the original test results will be deemed accepted and the Referee Test Sample shall be disposed of.
22. All Referee Test Samples, including cores shall include the following document:

New Mexico Department of Transportation
Referee Sample Materials Identification Sheet

Check ONE: ___State ___Contractor

All split samples, including cores, for referee testing will be clearly labeled as "Referee Samples", as directed by the Project Manager, and will be initially maintained at the Project in accordance with 423.3.7 OR 424.3.7. Information for each sample will include:

Project Number: _____ Control Number: _____

SML Mix Design No. _____

Date Sampled _____ Time Sampled _____

Technician who obtained the sample _____

Date tested _____

Technician who performed the test _____

Lot/ Sub-lot identification _____

Station Sampled _____

Location (i.e., SBDL, bottom mat) _____

Asphalt Report No. _____ Test No. _____

Date the subject test is invoked: _____

Project Manager _____ Phone: _____

District Lab Supervisor: _____ Phone: _____

Assistant District Engineer: _____ Phone: _____

In order to ensure the anonymity for each sample, this information will not be marked directly on any sample, but will be kept with each sample.

Submit a Set of IO Calibration Sample along with the Build Sheet for the First Referee Testing Sample of Volumetric Analysis. Also, submit Asphalt Daily Reports for the Tests invoked. Please send a copy of all the supporting and informational documents thru email to State Asphalt Engineer.